

IN THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL CIRCUIT IN AND FOR  
COLLIER COUNTY, FLORIDA CIVIL ACTION

STOCK CONSTRUCTION, LLC, a Florida limited liability company, and STOCK DEVELOPMENT, LLC, a Florida limited liability company,

Plaintiffs,

v.

BEN KING CONSTRUCTION, LLC, CARPENTER CONTRACTORS OF AMERICA, INC., CREATIVE DOOR & MILLWORK, LLC, DALY CONSTRUCTION, INC., DALY CONSTRUCTION OF SW FLORIDA, INC., GREEN STRUCTURES LIMITED, INC., GREEN STRUCTURES OF SWFL, INC., GULF WESTERN ROOFING & SHEET METAL, INC., HANSEN SCREEN ENCLOSURES, INC., JMC COATINGS, LLC, JMC PAINTING & WATERPROOFING, INC., PACE ENCLOSURES, INC., PRIME DRYWALL & PAINTING, INC., PRO-FRAME CONTRACTING, INC., RDL ARCHITECTS, INC., SILTECH, INC., SILTECH MANUFACTURING, INC., SUTTON CONTRACTING SOLUTIONS, INC., SW USA FRANCO, LLC, UNITED SUBCONTRACTORS, INC., D/B/A NCR/WEST COAST INSULATION,

Defendants.

Case No. 2018-CA-2256

**AMENDED COMPLAINT**

**PLAINTIFFS**, Stock Construction, LLC, a Florida limited liability company, and Stock Development, LLC, a Florida limited liability company (collectively referred to herein as “**Stock**”) hereby sue **DEFENDANTS**, Ben King Construction, LLC (“**Ben King**”), Carpenter Contractors of America, Inc. (“**Carpenter**”), Creative Door & Millwork, LLC (“**Creative Door**”), and Daly Construction, Inc., and Daly Construction of SW Florida, Inc. (collectively referred to herein as “**Daly**”), and Green Structures Limited, Inc., and Green Structures of

SWFL, Inc. (collectively referred to herein as “**Green Structures**”), Gulf Western Roofing & Sheet Metal, Inc. (“**Gulf Western**”), Hansen Screen Enclosures, Inc. (“**Hansen**”), and JMC Coatings, LLC, (“**JMC Coatings**”), JMC Painting & Waterproofing, Inc. (“**JMC Painting**”), Pace Enclosures, Inc. (“**Pace**”), Prime Drywall & Painting, Inc. (“**Prime**”), Pro-Frame Contracting, Inc. (“**Pro-Frame**”), RDL Architects, Inc. (“**RDL**”), and Siltech, Inc., and Siltech Manufacturing, Inc. (collectively referred to herein as “**Siltech**”), Sutton Contracting Solutions, Inc. (“**Sutton**”), SW USA Franco, LLC (“**Franco**”), United Subcontractors, Inc., d/b/a NCR/West Coast Insulation (“**West Coast**”), J & D Heating and Air Conditioning, Inc. (“**J & D Heating**”), and GFA International, Inc. (“**GFA**”), and state:

**Jurisdiction, Venue, and Parties**

1. This is an action for damages exceeding \$15,000.00, exclusive of interest, attorneys’ fees and costs, making jurisdiction appropriate in this Court.
2. Venue is proper in Collier County, Florida, since the actions giving rise to this claim occurred in Collier County, Florida.
3. Ben King is a Florida limited liability company, with its principal place of business located at 4309 15<sup>th</sup> Street West, Lehigh Acres, Florida 33971.
4. Carpenter is a foreign corporation authorized to do business in the State of Florida.
5. Creative Door is a Florida limited liability company, with its principal place of business located at 2840 South Street, Fort Myers, Florida 33916.
6. Daly Construction, Inc., is a Florida corporation, with its principal place of business located at 1085 Business Lane, Unit 5, Naples, Florida 34110.
7. Daly Construction of SW Florida, Inc., is a Florida corporation, with its principal place of business located at 27554 Tarpon Way, Bonita Springs, Florida 34134.

8. Daly Construction, Inc., and Daly Construction of SW Florida, Inc., are collectively referred to herein as “**Daly.**”
9. Green Structures Limited, Inc., is a Florida corporation, with its principal place of business located at 18592 Seabring Road, Fort Myers, Florida 33967.
10. Green Structures of SWFL, Inc., is a Florida corporation, with its principal place of business at 853 Vanderbilt Beach Road, Unit 338, Naples, Florida 34108.
11. Green Structures Limited, Inc., and Green Structures of SWFL, Inc., are collectively referred to herein as “**Green Structures.**”
12. Gulf Western is a Florida corporation, with its principal place of business located at 9148 Bonita Beach Road, Suite 102, Bonita Springs, Florida 34135.
13. Hansen is a Florida corporation, with its principal place of business located at 11840 Metro Parkway, Suite A, Fort Myers, Florida 33966.
14. JMC Coatings is a Florida limited liability company, with its principal place of business located at 2025 J&C Boulevard, Unit 8, Naples, Florida 34109.
15. JMC Painting is a Florida corporation, with its principal place of business located at 28210 Old 41 Road, Unit 308, Bonita Springs, Florida 34135.
16. Pace is a Florida corporation with its principal place of business located at 12101 Crystal Condo Road, Fort Myers, Florida 33966.
17. Prime is a Florida corporation with its principal place of business located at 4503 NW 103 Avenue, Suite 102, Sunrise, Florida 33351.
18. Pro-Frame is a Florida corporation with its principal place of business located at 2985 Center Port Circle, Suite 1, Pompano Beach, Florida 33064.
19. RDL is a foreign corporation authorized to do business in the State of Florida.

20. Siltech, Inc., is a Florida corporation, with its principal place of business located at 1881 Trade Center Way, Naples, Florida 34109.
21. Siltech Manufacturing, Inc., is a Florida corporation, with its principal place of business located at 10971 K Nine Drive, Unit 101, Bonita Springs, Florida 34135.
22. Siltech, Inc., and Siltech Manufacturing, Inc., are collectively referred to herein as **“Siltech.”**
23. Sutton is a Florida corporation with its principal place of business located at 2808 Broadway Center Boulevard, Brandon, Florida, 33510.
24. Franco is a Florida limited liability company, with its principal place of business located at 690 3rd Street SW, Naples, Florida 34117.
25. United Subcontractors, Inc., is a foreign corporation authorized to do business in the State of Florida and does business as “NCR/West Coast Insulation.”
26. United Subcontractors, Inc., d/b/a NCR/West Coast Insulation is referred to herein as **“West Coast.”**
27. J & D Heating and Air Conditioning, Inc., is a Florida profit corporation with its principal place of business located at 5631 Halifax Ave, Fort Myers, Florida 33912.
28. GFA International, Inc., is a Florida profit corporation with its principal place of business located at 1215 Wallace Drive, Delray Beach, Florida 33444.
29. Stock Construction, LLC, is a Florida limited liability company, with its principal place of business located at 2639 Professional Circle, Suite 101, Naples, Florida.
30. Stock Development, LLC, is a Florida limited liability company, with its principal place of business located at 2639 Professional Circle, Suite 101, Naples, Florida 34119.

### **General Allegations**

31. At all times relevant to these claims, Stock Development, LLC, developed condominium buildings located in what is known as the Ole Community in Naples (“**Ole Community**”), Florida.
32. Stock Construction, LLC, constructed buildings in the Ole Community.
33. Ole Condominium Association, Inc. (the “**Association**”), has made allegations related to, including, but not limited to, defective design and work on buildings in the Ole Community.
34. Stock has suffered losses as a result of damages to the buildings and repairs commenced, including, but not limited to, damages and repairs related to design, roofing systems, doors and windows, stucco, metal products, and elevated decks of buildings in the Ole Community, and Stock is faced with damage claims by the Association.
35. Stock has incurred attorneys’ fees and costs in connection with responding to, and addressing, claims made by the Association.
36. Stock has retained the law firm of Coleman, Yovanovich & Koester, P.A., to represent it in this action, and Stock is required to pay Coleman, Yovanovich & Koester, P.A., a reasonable fee for its service.
37. Stock has satisfied all conditions precedent to the filing of this Action, or all such conditions precedent have been waived or are otherwise fulfilled.

### **COUNT I – NEGLIGENCE** **(Ben King)**

38. Stock sues Ben King for Negligence.

39. Stock realleges paragraphs 1 through 37 above as though fully set forth herein.
40. Ben King was retained by Creative Door as a subcontractor to perform work related to the supply and installation of interior doors, trim, hardware, exterior doors, and windows, for buildings in the Ole Community.
41. The Association has made allegations related to defective work, including, among other things, work related to the doors and windows of buildings in the Ole Community.
42. Ben King performed significant and substantial work related to the doors and windows, for buildings in the Ole Community.
43. Ben King had a duty to perform its work in a workmanlike manner, of workmanlike quality, and free of defects.
44. Ben King breached that duty by performing work which contained defects and was not of workmanlike quality.
45. The windows in the Ole Community contained workmanship defects.
46. Ben King's work related to the Ole Community fell below the appropriate standard of care.
47. Stock has been damaged as a result of Ben King's breach of its duty to Stock.
48. Stock has been damaged as a result of the defective work.
49. The defective work has caused damage including rip and tear, water damage, and damage to other property.
50. The defective work has caused damage to other property, including, but not limited to, the interior, trim, other building materials, work of other trades, and personal property with buildings in the Ole Community.

51. The defective work performed by Ben King is the cause in fact of Stock's damages.
52. The defective work performed by Ben King is the proximate cause of Stock's damages.
53. Stock Construction, LLC, has suffered damage as a result of Ben King's negligence, including, but not limited to, the following:
  - A. Investigative repair and remediation costs;
  - B. Attorneys' fees and costs incurred in defending and prosecuting claims regarding this matter;
  - C. Any potential settlement payments and other compensation paid to claimants;
  - D. Settlement payments made;
  - E. Litigation and consulting expert fees; and
  - F. Overhead and warranty costs other than expenses incurred as a result of this Defendant not honoring its indemnification obligation.
54. Plaintiffs, Stock Development, LLC, and Stock Construction, LLC, have satisfied all conditions precedent to maintaining this action, or all such conditions precedent have been waived.

**WHEREFORE**, Plaintiffs, Stock Construction, LLC, and Stock Development, LLC, respectfully request this Court to enter a judgment against Defendant, Ben King Construction, LLC, awarding Plaintiffs their damages, prejudgment interest, attorneys' fees and costs incurred in this matter, and awarding Plaintiffs any further relief the Court deems just and appropriate.

**COUNT II – BUILDING CODE VIOLATIONS**  
**(Ben King)**

55. Stock sues Ben King for building code violations.

56. Stock reasserts the allegations contained in paragraphs 1 through 37 above as though fully set forth herein.
57. Ben King was retained by Creative Door as a subcontractor to perform work related to the supply and installation of interior doors, trim, hardware, exterior doors, and windows, for buildings in the Ole Community.
58. The Association has made allegations related to defective work, including, among other things, work related to the doors and windows of buildings in the Ole Community.
59. Section 553.84, Florida Statutes, empowers “any person or party” who has been “damaged as a result of a violation of [] the Florida Building Code” to assert a cause of action “against the person or party who committed the violation.”
60. Ben King performed work on and materially participated in the installation of windows and doors to buildings in the Ole Community.
61. In so doing, Ben King violated Florida Building Code provisions related to the installation of windows and doors and associated weather protection/waterproofing.
62. Stock has been damaged as a result of the defective and non-code-compliant work.
63. The defective work has caused damage including rip and tear, water damage, and damage to other property.
64. The defective work has caused damage to other property, including, but not limited to, the interior, trim, other building materials, work of other trades, and personal property with buildings in the Ole Community.



65. Ben King's defective workmanship was a substantial factor in the damage to buildings within the Ole Community, which, under Florida law, renders Ben King liable for all of Stock's damages associated with Ben King's actions.
66. Ben King is liable directly to Stock for the damages caused by and resulting from the building code violations.
67. Stock seeks recovery from Ben King for all damages incurred by Stock in connection with Ben King's building code violations, including without limitation the following:
  - A. Investigative repair and remediation costs;
  - B. Attorneys' fees and costs incurred in defending and prosecuting claims regarding this matter;
  - C. Any potential settlement payments and other compensation paid to claimants;
  - D. Settlement payments made;
  - E. Litigation and consulting expert fees; and
  - F. Overhead and warranty costs other than expenses incurred as a result of this Defendant not honoring its indemnification obligation.
68. Stock has satisfied all conditions precedent to maintaining this action or all such conditions precedent have been waived.

**WHEREFORE**, Plaintiffs, Stock Construction, LLC, and Stock Development, LLC, respectfully request this Court to enter a judgment against Defendant, Ben King Construction, LLC, awarding Plaintiffs their damages, prejudgment interest, attorneys' fees and costs incurred in this matter, and awarding Plaintiffs any further relief the Court deems just and appropriate.

**COUNT III – BREACH OF CONTRACT**  
**(Carpenter)**

69. Stock Construction, LLC, sues Carpenter for breach of contract.
70. Stock Construction, LLC, reasserts the allegations contained in paragraphs 1 through 37 above as though fully set forth herein.
71. Stock Construction, LLC, entered into a Subcontractor Base Agreement with Carpenter to perform work, including the shell contracting and supply of trusses for buildings in the Ole Community.
72. A true and correct copy of the Subcontractor Base Agreement with Carpenter is attached hereto as **Exhibit 1.**
73. The Association has made allegations related to defective work, including that related to the shell and trusses of buildings in the Ole Community.
74. Carpenter performed significant and substantial work related to the shells and trusses of buildings in the Ole Community.
75. Carpenter had a duty to perform its work in a workmanlike manner and in accordance with its contract.
76. Carpenter breached its contract by performing work which contained defects and was not of workmanlike quality.
77. Shell and trusses of buildings in the Ole Community contained workmanship defects.
78. The defective work has caused damage including rip and tear, water damage, and damage to other property.
79. The defective work has caused damage to other property, including, but not limited to, the interior, trim, other building materials, work of other trades, and personal property with buildings in the Ole Community.
80. Stock Construction, LLC, has been damaged as a result of the defective work.

81. Stock Construction, LLC, has suffered damage as a result of Carpenter's breach, including, but not limited to, the following:
- A. Investigative repair and remediation costs;
  - B. Attorneys' fees and costs incurred in defending and prosecuting claims regarding this matter;
  - C. Any potential settlement payments and other compensation paid to claimants;
  - D. Settlement payments made;
  - E. Litigation and consulting expert fees; and
  - F. Overhead and warranty costs other than expenses incurred as a result of this Defendant not honoring its indemnification obligation.
82. Carpenter's defective workmanship was a substantial factor in the damage to the buildings in the Ole Community, which, under Florida law, renders Carpenter liable for all of Stock's damages associated with Carpenter's work.
83. Stock Construction, LLC, has been damaged by Carpenter's breach.
84. The damages include, without limitation, remediation damages, overpayment, *et cetera*.
85. Stock Construction, LLC, has retained the law firm of Coleman, Yovanovich & Koester, P.A., to represent it in this matter, has incurred reasonable attorneys' fees and costs in prosecuting this matter, and is entitled to the recovery of the same from Carpenter.
86. Stock Construction, LLC, has satisfied all conditions precedent to maintaining this action, or all such conditions precedent have been waived.

**WHEREFORE**, Plaintiff, Stock Construction, LLC, respectfully request this Court to enter a judgment against Defendant, Carpenter Contractors of America, Inc., awarding Stock Construction, LLC, its damages, prejudgment interest, attorneys' fees, and costs incurred in this matter, and awarding Stock Construction, LLC, any further relief the Court deems just and appropriate.

**COUNT IV – CONTRACTUAL INDEMNIFICATION**  
**(Carpenter)**

87. Stock Construction, LLC, sues Carpenter for contractual indemnification based on claims, losses, damages, and expenses arising out of or resulting from Carpenter's work.
88. Stock Construction, LLC, reasserts the allegations contained in paragraphs 1 through 37 above as though fully set forth herein.
89. Stock Construction, LLC, entered into a Subcontractor Base Agreement with Carpenter to perform work, including the shell contracting and supply of trusses for buildings in the Ole Community.
90. A true and correct copy of the Subcontractor Base Agreement with Carpenter is attached hereto as **Exhibit 1**.
91. The Association has made allegations related to defective work, including that related to the shell and trusses of buildings in the Ole Community.
92. The defective work has caused damage including rip and tear, water damage, and damage to other property.

93. The defective work has caused damage to other property, including, but not limited to, the interior, trim, other building materials, work of other trades, and personal property with buildings in the Ole Community.
94. Stock Construction, LLC, has been damaged as a result of the defective work.
95. Carpenter entered into the Subcontractor Base Agreement with Stock Construction, LLC, and through the Subcontract, specifically provided contractual indemnity to Stock Construction, LLC, and the Owner.
96. Despite demand, notice and opportunity to indemnify Stock Construction, LLC, Carpenter has failed to do so.
97. Pursuant to Carpenter's Subcontract, Carpenter is obligated to pay Stock Construction, LLC's, attorneys' fees and costs.
98. Stock Construction, LLC, has suffered damage as a result of Carpenter's failure to indemnify Stock Construction, LLC, including but not limited to the following:
  - A. Investigative repair and remediation costs;
  - B. Attorneys' fees and costs incurred in defending and prosecuting claims regarding this matter;
  - C. Any potential settlement payments and other compensation paid to claimants;
  - D. Settlement payments made;
  - E. Litigation and consulting expert fees; and
  - F. Overhead and warranty costs other than expenses incurred as a result of this Defendant not honoring its indemnification obligation.

99. Carpenter has a specific contractual obligation to repair and remediate, compensate Stock Construction, LLC, and then seek recovery through subrogation against otherwise responsible parties.
100. Carpenter, by failing to take affirmative action to assist, indemnify, and hold Stock Construction, LLC, harmless, has caused and exacerbated damages suffered by Stock Construction, LLC.
101. In the event Stock Construction, LLC, obtains a judgment against any responsible party for claims, losses, damages, and expenses arising out of or resulting from Carpenter's work, and such judgment is uncollectable, the amount of such uncollected judgment attributable to Carpenter's work must be paid by Carpenter, as the need for the litigation in obtaining the judgment was proximately caused by Carpenter's failure to indemnify and hold harmless Stock Construction, LLC.
102. Stock Construction, LLC, is entitled to all its attorneys' fees and costs and interest on its attorneys' fees and costs incurred in litigating or dealing with claims with other subcontractors, product suppliers, vendors, the engineer, the Association, and any other necessary and proper defendants.
103. Stock Construction, LLC, has retained the law firm of Coleman, Yovanovich & Koester, P.A., to represent it in this matter, has incurred reasonable attorneys' fees and costs in prosecuting this matter, and is entitled to the recovery of the same from Carpenter.
104. Stock Construction, LLC, has satisfied all conditions precedent to maintaining this action, or all such conditions precedent have been waived.

**WHEREFORE**, Plaintiff, Stock Construction, LLC, respectfully request this Court to enter a judgment against Defendant, Carpenter Contractors of America, Inc., awarding Stock Construction, LLC, its damages, prejudgment interest, attorneys' fees, and costs incurred in this matter, and awarding Stock Construction, LLC, any further relief the Court deems just and appropriate.

**COUNT V – BUILDING CODE VIOLATIONS**  
**(Carpenter)**

105. Stock sues Carpenter for building code violations.
106. Stock reasserts the allegations contained in paragraphs 1 through 37 above as though fully set forth herein.
107. Stock Construction, LLC, entered into a Subcontractor Base Agreement with Carpenter to perform work, including the shell contracting and supply of trusses for buildings in the Ole Community.
108. A true and correct copy of the Subcontractor Base Agreement with Carpenter is attached hereto as **Exhibit 1**.
109. The Association has made allegations related to defective work, including that related to the shell and trusses of buildings in the Ole Community.
110. Section 553.84, Florida Statutes, empowers “any person or party” who has been “damaged as a result of a violation of [] the Florida Building Code” to assert a cause of action “against the person or party who committed the violation.”
111. Carpenter performed work on and materially participated in the contracting, construction, supply, and/or installation of the shell and trusses of buildings in the Ole Community.

112. In so doing, Carpenter violated Florida Building Code provisions related to the shell and trusses and associated waterproofing.
113. Stock has been damaged as a result of the defective and non-code-compliant work.
114. The defective work has caused damage including rip and tear, water damage, and damage to other property.
115. The defective work has caused damage to other property, including, but not limited to, the interior, trim, other building materials, work of other trades, and personal property with buildings in the Ole Community.
116. Carpenter's defective workmanship was a substantial factor in the damage to buildings within the Ole Community, which, under Florida law, renders Carpenter liable for all of Stock's damages associated with Carpenter's actions.
117. Carpenter is liable directly to Stock for the damages caused by and resulting from the building code violations.
118. Stock seeks recovery from Carpenter for all damages incurred by Stock in connection with Carpenter's building code violations, including without limitation the following:
  - A. Investigative repair and remediation costs;
  - B. Attorneys' fees and costs incurred in defending and prosecuting claims regarding this matter;
  - C. Any potential settlement payments and other compensation paid to claimants;
  - D. Settlement payments made;
  - E. Litigation and consulting expert fees; and
  - F. Overhead and warranty costs other than expenses incurred as a result of this Defendant not honoring its indemnification obligation.



119. Stock has satisfied all conditions precedent to maintaining this action or all such conditions precedent have been waived.

**WHEREFORE**, Plaintiffs, Stock Development, LLC, and Stock Construction, LLC, respectfully request this Court to enter a judgment against Defendant, Carpenter Contractors of America, Inc., awarding Plaintiffs their damages, prejudgment interest, attorneys' fees and costs incurred in this matter, and awarding Plaintiffs any further relief the Court deems just and appropriate.

**COUNT VI – BREACH OF WARRANTY**  
**(Carpenter)**

120. Stock Construction, LLC, sues Carpenter for breach of warranty.
121. Stock Construction, LLC, reasserts the allegations contained in paragraphs 1 through 37 above as though fully set forth herein.
122. Stock Construction, LLC, entered into a Subcontractor Base Agreement with Carpenter to perform work, including the shell contracting and supply of trusses for buildings in the Ole Community.
123. A true and correct copy of the Subcontractor Base Agreement with Carpenter is attached hereto as **Exhibit 1.**
124. The Association has made allegations related to defective work, including that related to the shell and trusses of buildings in the Ole Community.
125. Stock Construction, LLC, has provided notice to Carpenter breaching its warranty obligations for the work performed by Carpenter in the Ole Community.
126. Stock Construction, LLC, has been damaged by Carpenter's breach of warranty.
127. Stock Construction, LLC, has been damaged as a result of the defective work.

128. The defective work has caused damage including rip and tear, water damage, and damage to other property.
129. The defective work has caused damage to other property, including, but not limited to, the interior, trim, other building materials, work of other trades, and personal property with buildings in the Ole Community.
130. Stock Construction, LLC, seeks recovery from Carpenter for all of Stock Construction, LLC's, damages, including without limitation:
  - A. Investigative repair and remediation costs;
  - B. Attorneys' fees and costs incurred in defending and prosecuting claims regarding this matter;
  - C. Any potential settlement payments and other compensation paid to claimants;
  - D. Settlement payments made;
  - E. Litigation and consulting expert fees; and
  - F. Overhead and warranty costs other than expenses incurred as a result of this Defendant not honoring its indemnification obligation.
131. Stock has satisfied all conditions precedent to maintaining this action or all such conditions precedent have been waived.

**WHEREFORE**, Plaintiff, Stock Construction, LLC, respectfully request this Court to enter a judgment against Defendant, Carpenter Contractors of America, Inc., awarding Stock Construction, LLC, its damages, prejudgment interest, attorneys' fees and costs incurred in this matter, and awarding Stock Construction, LLC, any further relief the Court deems just and appropriate.

**COUNT VII – BREACH OF CONTRACT**  
**(Creative Door)**

132. Stock Construction, LLC, sues Creative Door for breach of contract.
133. Stock Construction, LLC, reasserts the allegations contained in paragraphs 1 through 37 above as though fully set forth herein.
134. Stock Construction, LLC, entered into a Subcontractor Base Agreement with Creative Door to perform work, including the supply and installation of interior doors, trim, hardware, exterior doors, and windows, for buildings in the Ole Community.
135. A true and correct copy of the Subcontractor Base Agreement with Creative Door are attached hereto as **Exhibit 2.**
136. The Association has made allegations related to defective work, including, among other things, work related to the doors and windows of buildings in the Ole Community.
137. Creative Door performed significant and substantial work related to the installation of exterior and interior doors, windows, trim, and hardware in buildings in the Ole Community.
138. Creative Door had a duty to perform its work in a workmanlike manner and in accordance with its contract.
139. Creative Door breached its contract by performing work which contained defects and was not of workmanlike quality.
140. Doors and windows in the Ole Community contained workmanship defects.
141. The defective work has caused damage including rip and tear, water damage, and damage to other property.

142. The defective work has caused damage to other property, including, but not limited to, the interior, trim, other building materials, work of other trades, and personal property with buildings in the Ole Community.
143. Stock Construction, LLC, has been damaged as a result of the defective work.
144. Stock Construction, LLC, has suffered damage as a result of Creative Door's breach, including, but not limited to, the following:
- A. Investigative repair and remediation costs;
  - B. Attorneys' fees and costs incurred in defending and prosecuting claims regarding this matter;
  - C. Any potential settlement payments and other compensation paid to claimants;
  - D. Settlement payments made;
  - E. Litigation and consulting expert fees; and
  - F. Overhead and warranty costs other than expenses incurred as a result of this Defendant not honoring its indemnification obligation.
145. Creative Door's defective workmanship was a substantial factor in the damage to the buildings in the Ole Community, which, under Florida law, renders Creative Door liable for all of Stock's damages associated with Creative Door's work.
146. Stock Construction, LLC, has been damaged by Creative Door's breach.
147. The damages include, without limitation, remediation damages, overpayment, *et cetera*.
148. Stock Construction, LLC, has retained the law firm of Coleman, Yovanovich & Koester, P.A., to represent it in this matter, has incurred reasonable attorneys' fees

and costs in prosecuting this matter, and is entitled to the recovery of the same from Creative Door.

149. Stock Construction, LLC, has satisfied all conditions precedent to maintaining this action, or all such conditions precedent have been waived.

**WHEREFORE**, Plaintiff, Stock Construction, LLC, respectfully request this Court to enter a judgment against Defendant, Creative Door & Millwork, LLC, awarding Stock Construction, LLC, its damages, prejudgment interest, attorneys' fees, and costs incurred in this matter, and awarding Stock Construction, LLC, any further relief the Court deems just and appropriate.

**COUNT VIII – CONTRACTUAL INDEMNIFICATION**  
**(Creative Door)**

150. Stock Construction, LLC, sues Creative Door for contractual indemnification based on claims, losses, damages, and expenses arising out of or resulting from Creative Door's work.
151. Stock Construction, LLC, reasserts the allegations contained in paragraphs 1 through 37 above as though fully set forth herein.
152. Stock Construction, LLC, entered into a Subcontractor Base Agreement with Creative Door to perform work, including the supply and installation of interior doors, trim, hardware, exterior doors, and windows, for buildings in the Ole Community.
153. A true and correct copy of the Subcontractor Base Agreement with Creative Door is attached hereto as **Exhibit 2.**
154. The Association has made allegations related to defective work, including, among other things, work related to the doors and windows of buildings in the Ole

Community.

155. The defective work has caused damage including rip and tear, water damage, and damage to other property.
156. The defective work has caused damage to other property, including, but not limited to, the interior, trim, other building materials, work of other trades, and personal property with buildings in the Ole Community.
157. Stock Construction, LLC, has been damaged as a result of the defective work.
158. Creative Door entered into the Subcontractor Base Agreement with Stock Construction, LLC, and through the Subcontract, specifically provided contractual indemnity to Stock Construction, LLC, and the Owner.
159. Despite demand, notice and opportunity to indemnify Stock Construction, LLC, Creative Door has failed to do so.
160. Pursuant to Creative Door's Subcontract, Creative Door is obligated to pay Stock Construction, LLC's, attorneys' fees and costs.
161. Stock Construction, LLC, has suffered damage as a result of Creative Door's failure to indemnify Stock Construction, LLC, including but not limited to the following:
  - A. Investigative repair and remediation costs;
  - B. Attorneys' fees and costs incurred in defending and prosecuting claims regarding this matter;
  - C. Any potential settlement payments and other compensation paid to claimants;
  - D. Settlement payments made;
  - E. Litigation and consulting expert fees; and

F. Overhead and warranty costs other than expenses incurred as a result of this Defendant not honoring its indemnification obligation.

162. Creative Door has a specific contractual obligation to repair and remediate, compensate Stock Construction, LLC, and then seek recovery through subrogation against otherwise responsible parties.
163. Creative Door, by failing to take affirmative action to assist, indemnify, and hold Stock Construction, LLC, harmless, has caused and exacerbated damages suffered by Stock Construction, LLC.
164. In the event Stock Construction, LLC, obtains a judgment against any responsible party for claims, losses, damages, and expenses arising out of or resulting from Creative Door's work, and such judgment is uncollectable, the amount of such uncollected judgment attributable to Creative Door's work must be paid by Creative Door, as the need for the litigation in obtaining the judgment was proximately caused by Creative Door's failure to indemnify and hold harmless Stock Construction, LLC.
165. Stock Construction, LLC, is entitled to all its attorneys' fees and costs and interest on its attorneys' fees and costs incurred in litigating or dealing with claims with other subcontractors, product suppliers, vendors, the engineer, the Association, and any other necessary and proper defendants.
166. Stock Construction, LLC, has retained the law firm of Coleman, Yovanovich & Koester, P.A., to represent it in this matter, has incurred reasonable attorneys' fees and costs in prosecuting this matter, and is entitled to the recovery of the same from Creative Door.

167. Stock Construction, LLC, has satisfied all conditions precedent to maintaining this action, or all such conditions precedent have been waived.

**WHEREFORE**, Plaintiff, Stock Construction, LLC, respectfully request this Court to enter a judgment against Defendant, Creative Door & Millwork, LLC, awarding Stock Construction, LLC, its damages, prejudgment interest, attorneys' fees, and costs incurred in this matter, and awarding Stock Construction, LLC, any further relief the Court deems just and appropriate.

**COUNT IX – BUILDING CODE VIOLATIONS**  
**(Creative Door)**

168. Stock sues Creative Door for building code violations.
169. Stock reasserts the allegations contained in paragraphs 1 through 37 above as though fully set forth herein.
170. Stock Construction, LLC, entered into a Subcontractor Base Agreement with Creative Door to perform work, including the supply and installation of interior doors, trim, hardware, exterior doors, and windows, for buildings in the Ole Community.
171. A true and correct copy of the Subcontractor Base Agreement with Creative Door is attached hereto as **Exhibit 2.**
172. The Association has made allegations related to defective work, including, among other things, work related to the doors and windows of buildings in the Ole Community.
173. Section 553.84, Florida Statutes, empowers “any person or party” who has been “damaged as a result of a violation of [] the Florida Building Code” to assert a cause of action “against the person or party who committed the violation.”



174. Creative Door performed work on and materially participated in the installation of interior and exterior doors, windows, trim, and hardware in buildings in the Ole Community.
175. In so doing, Creative Door violated Florida Building Code provisions related to the installation of doors and windows and associated waterproofing.
176. Stock has been damaged as a result of the defective and non-code-compliant work.
177. The defective work has caused damage including rip and tear, water damage, and damage to other property.
178. The defective work has caused damage to other property, including, but not limited to, the interior, trim, other building materials, work of other trades, and personal property with buildings in the Ole Community.
179. Creative Door's defective workmanship was a substantial factor in the damage to buildings within the Ole Community, which, under Florida law, renders Creative Door liable for all of Stock's damages associated with Creative Door's actions.
180. Creative Door is liable directly to Stock for the damages caused by and resulting from the building code violations.
181. Stock seeks recovery from Creative Door for all damages incurred by Stock in connection with Creative Door's building code violations, including without limitation the following:
  - A. Investigative repair and remediation costs;
  - B. Attorneys' fees and costs incurred in defending and prosecuting claims regarding this matter;
  - C. Any potential settlement payments and other compensation paid to claimants;

- D. Settlement payments made;
- E. Litigation and consulting expert fees; and
- F. Overhead and warranty costs other than expenses incurred as a result of this Defendant not honoring its indemnification obligation.

182. Stock has satisfied all conditions precedent to maintaining this action or all such conditions precedent have been waived.

**WHEREFORE**, Plaintiffs, Stock Development, LLC, and Stock Construction, LLC, respectfully request this Court to enter a judgment against Defendant, Creative Door & Millwork, LLC, awarding Plaintiffs their damages, prejudgment interest, attorneys' fees and costs incurred in this matter, and awarding Plaintiffs any further relief the Court deems just and appropriate.

**COUNT X – BREACH OF WARRANTY**  
**(Creative Door)**

- 183. Stock Construction, LLC, sues Creative Door for breach of warranty.
- 184. Stock Construction, LLC, reasserts the allegations contained in paragraphs 1 through 37 above as though fully set forth herein.
- 185. Stock Construction, LLC, entered into a Subcontractor Base Agreement with Creative Door to perform work, including the supply and installation of interior doors, trim, hardware, exterior doors, and windows, for buildings in the Ole Community.
- 186. A true and correct copy of the Subcontractor Base Agreement with Creative Door is attached hereto as **Exhibit 2.**
- 187. The Association has made allegations related to defective work, including, among other things, work related to the doors and windows of buildings in the Ole

Community.

188. The defective work has caused damage including rip and tear, water damage, and damage to other property.
189. The defective work has caused damage to other property, including, but not limited to, the interior, trim, other building materials, work of other trades, and personal property with buildings in the Ole Community.
190. Stock Construction, LLC, has been damaged as a result of the defective work.
191. Stock Construction, LLC, has provided notice to Creative Door breaching its warranty obligations for the work performed by Creative Door in the Ole Community.
192. Stock Construction, LLC, has been damaged by Creative Door's breach of warranty.
193. Stock Construction, LLC, seeks recovery from Creative Door for all of Stock Construction, LLC's, damages, including without limitation:
  - A. Investigative repair and remediation costs;
  - B. Attorneys' fees and costs incurred in defending and prosecuting claims regarding this matter;
  - C. Any potential settlement payments and other compensation paid to claimants;
  - D. Settlement payments made;
  - E. Litigation and consulting expert fees; and
  - F. Overhead and warranty costs other than expenses incurred as a result of this Defendant not honoring its indemnification obligation.
194. Stock has satisfied all conditions precedent to maintaining this action or all such conditions precedent have been waived.

**WHEREFORE**, Plaintiff, Stock Construction, LLC, respectfully request this Court to enter a judgment against Defendant, Creative Door & Millwork, LLC, awarding Stock Construction, LLC, its damages, prejudgment interest, attorneys' fees and costs incurred in this matter, and awarding Stock Construction, LLC, any further relief the Court deems just and appropriate.

**COUNT XI – BREACH OF CONTRACT**  
**(Daly)**

195. Stock Construction, LLC, sues Daly for breach of contract.
196. Stock Construction, LLC, reasserts the allegations contained in paragraphs 1 through 37 above as though fully set forth herein.
197. Stock Construction, LLC, entered into a Subcontractor Base Agreement with Daly to perform work, including the metal framing, drywall, and stucco of buildings in the Ole Community.
198. A true and correct copy of the Subcontractor Base Agreement with Daly is attached hereto as **Exhibit 3**.
199. The Association has made allegations related to defective work, including, but not limited to, the stucco work.
200. Daly performed significant and substantial work related to the application of stucco to buildings in the Ole Community.
201. Daly had a duty to perform its work in a workmanlike manner and in accordance with its contract.
202. Daly breached its contract by performing work which contained defects and was not of workmanlike quality.

203. Stucco in the Ole Community contained workmanship defects.
204. The defective work has caused damage including rip and tear, water damage, and damage to other property.
205. The defective work has caused damage to other property, including, but not limited to, the interior, trim, other building materials, work of other trades, and personal property with buildings in the Ole Community.
206. Stock Construction, LLC, has been damaged as a result of the defective work.
207. Stock Construction, LLC, has suffered damage as a result of Daly's breach, including, but not limited to, the following:
- A. Investigative repair and remediation costs;
  - B. Attorneys' fees and costs incurred in defending and prosecuting claims regarding this matter;
  - C. Any potential settlement payments and other compensation paid to claimants;
  - D. Settlement payments made;
  - E. Litigation and consulting expert fees; and
  - F. Overhead and warranty costs other than expenses incurred as a result of this Defendant not honoring its indemnification obligation.
208. Daly's defective workmanship was a substantial factor in the damage to the buildings in the Ole Community, which, under Florida law, renders Daly liable for all of Stock's damages associated with Daly's work.
209. Stock Construction, LLC, has been damaged by Daly's breach.
210. The damages include, without limitation, remediation damages, overpayment, *et cetera*.

211. Stock Construction, LLC, has retained the law firm of Coleman, Yovanovich & Koester, P.A., to represent it in this matter, has incurred reasonable attorneys' fees and costs in prosecuting this matter, and is entitled to the recovery of the same from Daly.
212. Stock Construction, LLC, has satisfied all conditions precedent to maintaining this action, or all such conditions precedent have been waived.

**WHEREFORE**, Plaintiff, Stock Construction, LLC, respectfully requests this Court to enter a judgment against Defendants, Daly Construction, Inc., and Daly Construction of SW Florida, Inc., awarding Stock Construction, LLC, its damages, prejudgment interest, attorneys' fees, and costs incurred in this matter, and awarding Stock Construction, LLC, any further relief the Court deems just and appropriate.

**COUNT XII – CONTRACTUAL INDEMNIFICATION**  
**(Daly)**

213. Stock Construction, LLC, sues Daly for contractual indemnification based on claims, losses, damages, and expenses arising out of or resulting from Daly's work.
214. Stock Construction, LLC, reasserts the allegations contained in paragraphs 1 through 37 above as though fully set forth herein.
215. Stock Construction, LLC, entered into a Subcontractor Base Agreement with Daly to perform work, including the metal framing, drywall, and stucco of buildings in the Ole Community.
216. A true and correct copy of the Subcontractor Base Agreement with Daly is attached hereto as **Exhibit 3**.
217. The Association has made allegations related to defective work, including, but not

- limited to, the stucco work.
218. The defective work has caused damage including rip and tear, water damage, and damage to other property.
219. The defective work has caused damage to other property, including, but not limited to, the interior, trim, other building materials, work of other trades, and personal property with buildings in the Ole Community.
220. Stock Construction, LLC, has been damaged as a result of the defective work.
221. Daly entered into the Subcontractor Base Agreement with Stock Construction, LLC, and through the Subcontract, specifically provided contractual indemnity to Stock Construction, LLC, and the Owner.
222. Despite demand, notice and opportunity to indemnify Stock Construction, LLC, Daly has failed to do so.
223. Pursuant to Daly's Subcontract, Daly is obligated to pay Stock Construction, LLC's, attorneys' fees and costs.
224. Stock Construction, LLC, has suffered damage as a result of Daly's failure to indemnify Stock Construction, LLC, including but not limited to the following:
- A. Investigative repair and remediation costs;
  - B. Attorneys' fees and costs incurred in defending and prosecuting claims regarding this matter;
  - C. Any potential settlement payments and other compensation paid to claimants;
  - D. Settlement payments made;
  - E. Litigation and consulting expert fees; and

- F. Overhead and warranty costs other than expenses incurred as a result of this Defendant not honoring its indemnification obligation.
225. Daly has a specific contractual obligation to repair and remediate, compensate Stock Construction, LLC, and then seek recovery through subrogation against otherwise responsible parties.
226. Daly, by failing to take affirmative action to assist, indemnify, and hold Stock Construction, LLC, harmless, has caused and exacerbated damages suffered by Stock Construction, LLC.
227. In the event Stock Construction, LLC, obtains a judgment against any responsible party for claims, losses, damages, and expenses arising out of or resulting from Daly's work, and such judgment is uncollectable, the amount of such uncollected judgment attributable to Daly's work must be paid by Daly, as the need for the litigation in obtaining the judgment was proximately caused by Daly's failure to indemnify and hold harmless Stock Construction, LLC.
228. Stock Construction, LLC, is entitled to all its attorneys' fees and costs and interest on its attorneys' fees and costs incurred in litigating or dealing with claims with other subcontractors, product suppliers, vendors, the engineer, the Association, and any other necessary and proper defendants.
229. Stock Construction, LLC, has retained the law firm of Coleman, Yovanovich & Koester, P.A., to represent it in this matter, has incurred reasonable attorneys' fees and costs in prosecuting this matter, and is entitled to the recovery of the same from Daly.



230. Stock Construction, LLC, has satisfied all conditions precedent to maintaining this action, or all such conditions precedent have been waived.

**WHEREFORE**, Plaintiff, Stock Construction, LLC, respectfully requests this Court to enter a judgment against Defendants, Daly Construction, Inc., and Daly Construction of SW Florida, Inc., awarding Stock Construction, LLC, its damages, prejudgment interest, attorneys' fees, and costs incurred in this matter, and awarding Stock Construction, LLC, any further relief the Court deems just and appropriate.

**COUNT XIII – BUILDING CODE VIOLATIONS**  
**(Daly)**

231. Stock sues Daly for building code violations.
232. Stock reasserts the allegations contained in paragraphs 1 through 37 above as though fully set forth herein.
233. Stock Construction, LLC, entered into a Subcontractor Base Agreement with Daly to perform work, including the metal framing, drywall, and stucco of buildings in the Ole Community.
234. A true and correct copy of the Subcontractor Base Agreement with Daly is attached hereto as **Exhibit 3**.
235. The Association has made allegations related to defective work, including, but not limited to, the stucco work.
236. Section 553.84, Florida Statutes, empowers “any person or party” who has been “damaged as a result of a violation of [] the Florida Building Code” to assert a cause of action “against the person or party who committed the violation.”

237. Daly performed work on and materially participated in the application of the stucco to buildings in the Ole Community.
238. In so doing, Daly violated Florida Building Code provisions related to the application of stucco and associated weather protection/waterproofing.
239. Stock has been damaged as a result of the defective and non-code-compliant work.
240. The defective work has caused damage including rip and tear, water damage, and damage to other property.
241. The defective work has caused damage to other property, including, but not limited to, the interior, trim, other building materials, work of other trades, and personal property with buildings in the Ole Community.
242. Daly's defective workmanship was a substantial factor in the damage to buildings within the Ole Community, which, under Florida law, renders Daly liable for all of Stock's damages associated with Daly's actions.
243. Daly is liable directly to Stock for the damages caused by and resulting from the building code violations.
244. Stock seeks recovery from Daly for all damages incurred by Stock in connection with Daly's building code violations, including without limitation the following:
  - A. Investigative repair and remediation costs;
  - B. Attorneys' fees and costs incurred in defending and prosecuting claims regarding this matter;
  - C. Any potential settlement payments and other compensation paid to claimants;
  - D. Settlement payments made;
  - E. Litigation and consulting expert fees; and

F. Overhead and warranty costs other than expenses incurred as a result of this Defendant not honoring its indemnification obligation.

245. Stock has satisfied all conditions precedent to maintaining this action or all such conditions precedent have been waived.

**WHEREFORE**, Plaintiffs, Stock Construction, LLC, and Stock Development, LLC, respectfully request this Court to enter a judgment against Defendants, Daly Construction, Inc., and Daly Construction of SW Florida, Inc., awarding Plaintiffs their damages, prejudgment interest, attorneys' fees and costs incurred in this matter, and awarding Plaintiffs any further relief the Court deems just and appropriate.

**COUNT XIV – BREACH OF WARRANTY**  
**(Daly)**

246. Stock Construction, LLC, sues Daly for breach of warranty.

247. Stock Construction, LLC, reasserts the allegations contained in paragraphs 1 through 37 above as though fully set forth herein.

248. Stock Construction, LLC, entered into a Subcontractor Base Agreement with Daly to perform work, including the metal framing, drywall, and stucco of buildings in the Ole Community.

249. A true and correct copy of the Subcontractor Base Agreement with Daly is attached hereto as **Exhibit 3**.

250. The Association has made allegations related to defective work, including, but not limited to, the stucco work.

251. Stock Construction, LLC, has provided notice to Daly of Daly breaching its warranty obligations for the stucco work performed by Daly in the Ole Community.

252. Stock Construction, LLC, has been damaged by Daly's breach of warranty.
253. Stock Construction, LLC, has been damaged as a result of the defective work.
254. The defective work has caused damage including rip and tear, water damage, and damage to other property.
255. The defective work has caused damage to other property, including, but not limited to, the interior, trim, other building materials, work of other trades, and personal property with buildings in the Ole Community.
256. Stock Construction, LLC, seeks recovery from Daly for all of Stock Construction, LLC's, damages, including without limitation:
  - A. Investigative repair and remediation costs;
  - B. Attorneys' fees and costs incurred in defending and prosecuting claims regarding this matter;
  - C. Any potential settlement payments and other compensation paid to claimants;
  - D. Settlement payments made;
  - E. Litigation and consulting expert fees; and
  - F. Overhead and warranty costs other than expenses incurred as a result of this Defendant not honoring its indemnification obligation.
257. Stock Construction, LLC, has satisfied all conditions precedent to maintaining this action or all such conditions precedent have been waived.

**WHEREFORE**, Plaintiff, Stock Construction, LLC, respectfully requests this Court to enter a judgment against Defendants, Daly Construction, Inc., and Daly Construction of SW Florida, Inc., awarding Stock Construction, LLC, its damages, prejudgment interest, attorneys'

fees and costs incurred in this matter, and awarding Stock Construction, LLC, any further relief the Court deems just and appropriate.

**COUNT XV – NEGLIGENCE**  
**(Green Structures)**

- 258. Stock sues Green Structures for Negligence.
- 259. Stock realleges paragraphs 1 through 37 above as though fully set forth herein.
- 260. Green Structures was the subcontractor of Daly and was retained to apply and complete the stucco to buildings in the Ole Community.
- 261. The Association has made allegations related to defective stucco and that work fell below the appropriate standard of care.
- 262. Green Structures performed significant and substantial work related to the application of stucco to buildings in the Ole Community
- 263. Green Structures had a duty to perform its work in a workmanlike manner, of workmanlike quality, and free of defects.
- 264. Green Structures breached that duty by performing work which contained defects and was not of workmanlike quality.
- 265. Stucco in the Ole Community contained workmanship defects.
- 266. Green Structure's work related to the Ole Community fell below the appropriate standard of care.
- 267. Stock has been damaged as a result of Green Structures' breach of its duty to Stock.
- 268. Stock has been damaged as a result of the defective work.
- 269. The defective work has caused damage including rip and tear, water damage, and damage to other property.

270. The defective work has caused damage to other property, including, but not limited to, the interior, trim, other building materials, work of other trades, and personal property with buildings in the Ole Community.
271. The defective work performed by Green Structures is the cause in fact of Stock's damages.
272. The defective work performed by Green Structures is the proximate cause of Stock's damages.
273. Stock Construction, LLC, has suffered damage as a result of Green Structures' negligence, including, but not limited to, the following:
- A. Investigative repair and remediation costs;
  - B. Attorneys' fees and costs incurred in defending and prosecuting claims regarding this matter;
  - C. Any potential settlement payments and other compensation paid to claimants;
  - D. Settlement payments made;
  - E. Litigation and consulting expert fees; and
  - F. Overhead and warranty costs other than expenses incurred as a result of this Defendant not honoring its indemnification obligation.
274. Plaintiffs, Stock Development, LLC, and Stock Construction, LLC, have satisfied all conditions precedent to maintaining this action, or all such conditions precedent have been waived.

**WHEREFORE**, Plaintiffs, Stock Construction, LLC, and Stock Development, LLC, respectfully request this Court to enter a judgment against Defendants, Green Structures Limited, Inc., and Green Structures of SWFL, Inc., awarding Plaintiffs their damages, prejudgment

interest, attorneys' fees and costs incurred in this matter, and awarding Plaintiffs any further relief the Court deems just and appropriate

**COUNT XVI – BUILDING CODE VIOLATIONS**  
**(Green Structures)**

- 275. Stock sues Green Structures for building code violations.
- 276. Stock reasserts the allegations contained in paragraphs 1 through 37 above as though fully set forth herein.
- 277. Green Structures was the subcontractor of Daly and was retained to apply and complete the stucco to buildings in the Ole Community.
- 278. The Association has made allegations related to defective stucco.
- 279. Section 553.84, Florida Statutes, empowers “any person or party” who has been “damaged as a result of a violation of [] the Florida Building Code” to assert a cause of action “against the person or party who committed the violation.”
- 280. Green Structures performed work on and materially participated in the application of the stucco to buildings in the Ole Community.
- 281. In so doing, Green Structures violated Florida Building Code provisions related to the application of stucco and associated weather protection and waterproofing.
- 282. Stock has been damaged as a result of the defective and non-code-compliant work.
- 283. The defective work has caused damage including rip and tear, water damage, and damage to other property.
- 284. The defective work has caused damage to other property, including, but not limited to, the interior, trim, other building materials, work of other trades, and personal property with buildings in the Ole Community.

285. Green Structures' defective workmanship was a substantial factor in the damage to buildings within the Ole Community, which, under Florida law, renders Green Structures liable for all of Stock's damages associated with Green Structures' actions.
286. Green Structures is liable directly to Stock for the damages caused by and resulting from the building code violations.
287. Stock seeks recovery from Green Structures for all damages incurred by Stock in connection with Green Structures' building code violations, including without limitation the following:
- A. Investigative repair and remediation costs;
  - B. Attorneys' fees and costs incurred in defending and prosecuting claims regarding this matter;
  - C. Any potential settlement payments and other compensation paid to claimants;
  - D. Settlement payments made;
  - E. Litigation and consulting expert fees; and
  - F. Overhead and warranty costs other than expenses incurred as a result of this Defendant not honoring its indemnification obligation.
288. Stock has satisfied all conditions precedent to maintaining this action or all such conditions precedent have been waived.

**WHEREFORE**, Plaintiffs, Stock Construction, LLC, and Stock Development, LLC, respectfully request this Court to enter a judgment against Defendants, Green Structures Limited, Inc., and Green Structures of SWFL, Inc., awarding Plaintiffs their damages, prejudgment



interest, attorneys' fees and costs incurred in this matter, and awarding Plaintiffs any further relief the Court deems just and appropriate.

**COUNT XVII – BREACH OF CONTRACT**  
**(Gulf Western)**

- 289. Stock Construction, LLC, sues Gulf Western for breach of contract.
- 290. Stock Construction, LLC, reasserts the allegations contained in paragraphs 1 through 37 above as though fully set forth herein.
- 291. Stock Construction, LLC, entered into a Subcontractor Base Agreement with Gulf Western to perform work, including that related to the steep slope roofing and construction of the roofing system of buildings in the Ole Community.
- 292. A true and correct copy of the Subcontractor Base Agreement with Gulf Western is attached hereto as **Exhibit 4.**
- 293. The Association has made allegations related to defective roofing systems of buildings in the Ole Community.
- 294. Gulf Western performed significant and substantial work to the roofing systems of buildings in the Ole Community.
- 295. Gulf Western had a duty to perform its work in a workmanlike manner and in accordance with its contract.
- 296. Gulf Western breached its contract by performing work which contained defects and was not of workmanlike quality.
- 297. Roofing systems in the Ole Community contained workmanship defects.
- 298. The defective work has caused damage including rip and tear, water damage, and damage to other property.

299. The defective work has caused damage to other property, including, but not limited to, the interior, trim, other building materials, work of other trades, and personal property with buildings in the Ole Community.
300. Stock Construction, LLC, has been damaged as a result of the defective work.
301. Stock Construction, LLC, has suffered damage as a result of Gulf Western's breach, including, but not limited to, the following:
- A. Investigative repair and remediation costs;
  - B. Attorneys' fees and costs incurred in defending and prosecuting claims regarding this matter;
  - C. Any potential settlement payments and other compensation paid to claimants;
  - D. Settlement payments made;
  - E. Litigation and consulting expert fees; and
  - F. Overhead and warranty costs other than expenses incurred as a result of this Defendant not honoring its indemnification obligation.
302. Gulf Western's defective workmanship was a substantial factor in the damage to the buildings in the Ole Community, which, under Florida law, renders Gulf Western liable for all of Stock's damages associated with Gulf Western's work.
303. Stock Construction, LLC, has been damaged by Gulf Western's breach.
304. The damages include, without limitation, remediation damages, overpayment, *et cetera*.
305. Stock Construction, LLC, has retained the law firm of Coleman, Yovanovich & Koester, P.A., to represent it in this matter, has incurred reasonable attorneys' fees

and costs in prosecuting this matter, and is entitled to the recovery of the same from Gulf Western.

306. Stock Construction, LLC, has satisfied all conditions precedent to maintaining this action, or all such conditions precedent have been waived.

**WHEREFORE**, Plaintiff, Stock Construction, LLC, respectfully request this Court to enter a judgment against Defendant, Gulf Western Roofing & Sheet Metal, Inc., awarding Stock Construction, LLC, its damages, prejudgment interest, attorneys' fees, and costs incurred in this matter, and awarding Stock Construction, LLC, any further relief the Court deems just and appropriate.

**COUNT XVIII – CONTRACTUAL INDEMNIFICATION**  
**(Gulf Western)**

307. Stock Construction, LLC, sues Gulf Western for contractual indemnification based on claims, losses, damages, and expenses arising out of or resulting from Gulf Western's work.
308. Stock Construction, LLC, reasserts the allegations contained in paragraphs 1 through 37 above as though fully set forth herein.
309. Stock Construction, LLC, entered into a Subcontractor Base Agreement with Gulf Western to perform work, including that related to the steep slope roofing and construction of the roofing system of buildings in the Ole Community.
310. A true and correct copy of the Subcontractor Base Agreement with Gulf Western is attached hereto as **Exhibit 4.**
311. The Association has made allegations related to defective roofing systems of buildings in the Ole Community.

312. The defective work has caused damage including rip and tear, water damage, and damage to other property.
313. The defective work has caused damage to other property, including, but not limited to, the interior, trim, other building materials, work of other trades, and personal property with buildings in the Ole Community.
314. Stock Construction, LLC, has been damaged as a result of the defective work.
315. Gulf Western entered into the Subcontractor Base Agreement with Stock Construction, LLC, and through the Subcontract, specifically provided contractual indemnity to Stock Construction, LLC, and the Owner.
316. Despite demand, notice and opportunity to indemnify Stock Construction, LLC, Gulf Western has failed to do so.
317. Pursuant to Gulf Western's Subcontract, Gulf Western is obligated to pay Stock Construction, LLC's, attorneys' fees and costs.
318. Stock Construction, LLC, has suffered damage as a result of Gulf Western's failure to indemnify Stock Construction, LLC, including but not limited to the following:
- A. Investigative repair and remediation costs;
  - B. Attorneys' fees and costs incurred in defending and prosecuting claims regarding this matter;
  - C. Any potential settlement payments and other compensation paid to claimants;
  - D. Settlement payments made;
  - E. Litigation and consulting expert fees; and
  - F. Overhead and warranty costs other than expenses incurred as a result of this Defendant not honoring its indemnification obligation.

319. Gulf Western has a specific contractual obligation to repair and remediate, compensate Stock Construction, LLC, and then seek recovery through subrogation against otherwise responsible parties.
320. Gulf Western, by failing to take affirmative action to assist, indemnify, and hold Stock Construction, LLC, harmless, has caused and exacerbated damages suffered by Stock Construction, LLC.
321. In the event Stock Construction, LLC, obtains a judgment against any responsible party for claims, losses, damages, and expenses arising out of or resulting from Gulf Western's work, and such judgment is uncollectable, the amount of such uncollected judgment attributable to Gulf Western's work must be paid by Gulf Western, as the need for the litigation in obtaining the judgment was proximately caused by Gulf Western's failure to indemnify and hold harmless Stock Construction, LLC.
322. Stock Construction, LLC, is entitled to all its attorneys' fees and costs and interest on its attorneys' fees and costs incurred in litigating or dealing with claims with other subcontractors, product suppliers, vendors, the engineer, the Association, and any other necessary and proper defendants.
323. Stock Construction, LLC, has retained the law firm of Coleman, Yovanovich & Koester, P.A., to represent it in this matter, has incurred reasonable attorneys' fees and costs in prosecuting this matter, and is entitled to the recovery of the same from Gulf Western.
324. Stock Construction, LLC, has satisfied all conditions precedent to maintaining this action, or all such conditions precedent have been waived.

**WHEREFORE**, Plaintiff, Stock Construction, LLC, respectfully request this Court to enter a judgment against Defendant, Gulf Western Roofing & Sheet Metal, Inc., awarding Stock Construction, LLC, its damages, prejudgment interest, attorneys' fees, and costs incurred in this matter, and awarding Stock Construction, LLC, any further relief the Court deems just and appropriate.

**COUNT XIX – BUILDING CODE VIOLATIONS**  
**(Gulf Western)**

- 325. Stock sues Gulf Western for building code violations.
- 326. Stock reasserts the allegations contained in paragraphs 1 through 37 above as though fully set forth herein.
- 327. Stock Construction, LLC, entered into a Subcontractor Base Agreement with Gulf Western to perform work, including that related to the steep slope roofing and construction of the roofing system of buildings in the Ole Community.
- 328. A true and correct copy of the Subcontractor Base Agreement with Gulf Western is attached hereto as **Exhibit 4.**
- 329. The Association has made allegations related to defective roofing systems of buildings in the Ole Community.
- 330. Section 553.84, Florida Statutes, empowers “any person or party” who has been “damaged as a result of a violation of [] the Florida Building Code” to assert a cause of action “against the person or party who committed the violation.”
- 331. Gulf Western performed work on and materially participated in the construction of the roofing systems of buildings in the Ole Community.

332. In so doing, Gulf Western violated Florida Building Code provisions related to the construction of roofing systems and associated waterproofing.
333. Stock has been damaged as a result of the defective and non-code-compliant work.
334. The defective work has caused damage including rip and tear, water damage, and damage to other property.
335. The defective work has caused damage to other property, including, but not limited to, the interior, trim, other building materials, work of other trades, and personal property with buildings in the Ole Community.
336. Gulf Western's defective workmanship was a substantial factor in the damage to buildings within the Ole Community, which, under Florida law, renders Gulf Western liable for all of Stock's damages associated with Gulf Western's actions.
337. Gulf Western is liable directly to Stock for the damages caused by and resulting from the building code violations.
338. Stock seeks recovery from Gulf Western for all damages incurred by Stock in connection with Gulf Western's building code violations, including without limitation the following:
- A. Investigative repair and remediation costs;
  - B. Attorneys' fees and costs incurred in defending and prosecuting claims regarding this matter;
  - C. Any potential settlement payments and other compensation paid to claimants;
  - D. Settlement payments made;
  - E. Litigation and consulting expert fees; and

F. Overhead and warranty costs other than expenses incurred as a result of this Defendant not honoring its indemnification obligation.

339. Stock has satisfied all conditions precedent to maintaining this action or all such conditions precedent have been waived.

**WHEREFORE**, Plaintiffs, Stock Development, LLC, and Stock Construction, LLC, respectfully request this Court to enter a judgment against Defendant, Gulf Western Roofing & Sheet Metal, Inc., awarding Plaintiffs their damages, prejudgment interest, attorneys' fees and costs incurred in this matter, and awarding Plaintiffs any further relief the Court deems just and appropriate.

**COUNT XX – BREACH OF WARRANTY**  
**(Gulf Western)**

340. Stock Construction, LLC, sues Gulf Western for breach of warranty.

341. Stock Construction, LLC, reasserts the allegations contained in paragraphs 1 through 37 above as though fully set forth herein.

342. Stock Construction, LLC, entered into a Subcontractor Base Agreement with Gulf Western to perform work, including that related to the steep slope roofing and construction of the roofing system of buildings in the Ole Community.

343. A true and correct copy of the Subcontractor Base Agreement with Gulf Western is attached hereto as **Exhibit 4.**

344. The Association has made allegations related to defective roofing systems of buildings in the Ole Community.

345. Stock Construction, LLC, has provided notice to Gulf Western of Gulf Western breaching its warranty obligations for the roofing work performed by Gulf Western in



- the Ole Community. The roofing work includes original work and defective repair work.
346. Stock Construction, LLC, has been damaged by Gulf Western's breach of warranty.
347. Stock Construction, LLC, has been damaged as a result of the defective work.
348. The defective work has caused damage including rip and tear, water damage, and damage to other property.
349. The defective work has caused damage to other property, including, but not limited to, the interior, trim, other building materials, work of other trades, and personal property with buildings in the Ole Community.
350. Stock Construction, LLC, seeks recovery from Gulf Western for all of Stock Construction, LLC's, damages, including without limitation:
- A. Investigative repair and remediation costs;
  - B. Attorneys' fees and costs incurred in defending and prosecuting claims regarding this matter;
  - C. Any potential settlement payments and other compensation paid to claimants;
  - D. Settlement payments made;
  - E. Litigation and consulting expert fees; and
  - F. Overhead and warranty costs other than expenses incurred as a result of this Defendant not honoring its indemnification obligation.
351. Stock has satisfied all conditions precedent to maintaining this action or all such conditions precedent have been waived.

**WHEREFORE**, Plaintiff, Stock Construction, LLC, respectfully request this Court to enter a judgment against Defendant, Gulf Western Roofing & Sheet Metal, Inc., awarding Stock

Construction, LLC, its damages, prejudgment interest, attorneys' fees and costs incurred in this matter, and awarding Stock Construction, LLC, any further relief the Court deems just and appropriate.

**COUNT XXI – BREACH OF CONTRACT**  
**(Hansen)**

- 352. Stock Construction, LLC, sues Hansen for breach of contract.
- 353. Stock Construction, LLC, reasserts the allegations contained in paragraphs 1 through 37 above as though fully set forth herein.
- 354. Stock Construction, LLC, entered into a Subcontractor Base Agreement with Hansen to perform work, including that related to welding, rails, screens and enclosures of buildings in the Ole Community.
- 355. A true and correct copy of the Subcontractor Base Agreement with Hansen is attached hereto as **Exhibit 5.**
- 356. The Association has made allegations related to defective work, including, but not limited to, work related to the metal products and Juliet balconies of buildings in the Ole Community.
- 357. Hansen performed significant and substantial work related to the supply and installation of certain metal products, including, but not limited to, the Juliet balconies, in buildings in the Ole Community.
- 358. Hansen had a duty to perform its work in a workmanlike manner and in accordance with its contract.
- 359. Hansen breached its contract by performing work which contained defects and was not of workmanlike quality.

360. Metal products in the Ole Community contained workmanship defects.
361. The defective work has caused damage including rip and tear, water damage, and damage to other property.
362. The defective work has caused damage to other property, including, but not limited to, the interior, trim, other building materials, work of other trades, and personal property with buildings in the Ole Community.
363. Stock Construction, LLC, has been damaged as a result of the defective work.
364. Stock Construction, LLC, has suffered damage as a result of Hansen's breach, including, but not limited to, the following:
- A. Investigative repair and remediation costs;
  - B. Attorneys' fees and costs incurred in defending and prosecuting claims regarding this matter;
  - C. Any potential settlement payments and other compensation paid to claimants;
  - D. Settlement payments made;
  - E. Litigation and consulting expert fees; and
  - F. Overhead and warranty costs other than expenses incurred as a result of this Defendant not honoring its indemnification obligation.
365. Hansen's defective workmanship was a substantial factor in the damage to buildings in the Ole Community, which, under Florida law, renders Hansen liable for all of Stock's damages associated with Hansen's work.
366. Stock Construction, LLC, has been damaged by Hansen's breach.
367. The damages include, without limitation, remediation damages, overpayment, *et cetera*.

368. Stock Construction, LLC, has retained the law firm of Coleman, Yovanovich & Koester, P.A., to represent it in this matter, has incurred reasonable attorneys' fees and costs in prosecuting this matter, and is entitled to the recovery of the same from Hansen.

369. Stock Construction, LLC, has satisfied all conditions precedent to maintaining this action, or all such conditions precedent have been waived.

**WHEREFORE**, Plaintiff, Stock Construction, LLC, respectfully requests this Court to enter a judgment against Defendant, Hansen Screen Enclosures, Inc., awarding Stock Construction, LLC, its damages, prejudgment interest, attorneys' fees, and costs incurred in this matter, and awarding Stock Construction, LLC, any further relief the Court deems just and appropriate.

**COUNT XXII – CONTRACTUAL INDEMNIFICATION**  
**(Hansen)**

370. Stock Construction, LLC, sues Hansen for contractual indemnification based on claims, losses, damages, and expenses arising out of or resulting from Hansen's work.

371. Stock Construction, LLC, reasserts the allegations contained in paragraphs 1 through 37 above as though fully set forth herein.

372. Stock Construction, LLC, entered into a Subcontractor Base Agreement with Hansen to perform work, including that related to welding, rails, screens and enclosures of buildings in the Ole Community.

373. A true and correct copy of the Subcontractor Base Agreement with Hansen is attached hereto as **Exhibit 5**.

374. The Association has made allegations related to defective work, including, but not

limited to, work related to the metal products and Juliet balconies of buildings in the Ole Community.

375. The defective work has caused damage including rip and tear, water damage, and damage to other property.
376. The defective work has caused damage to other property, including, but not limited to, the interior, trim, other building materials, work of other trades, and personal property with buildings in the Ole Community.
377. Stock Construction, LLC, has been damaged as a result of the defective work.
378. Hansen entered into the Subcontractor Base Agreement with Stock Construction, LLC, and through the Subcontract, specifically provided contractual indemnity to Stock Construction, LLC, and the Owner.
379. Despite demand, notice and opportunity to indemnify Stock Construction, LLC, Hansen has failed to do so.
380. Pursuant to Hansen's Subcontract, Hansen is obligated to pay Stock Construction, LLC's, attorneys' fees and costs.
381. Stock Construction, LLC, has suffered damage as a result of Hansen's failure to indemnify Stock Construction, LLC, including but not limited to the following:
  - A. Investigative repair and remediation costs;
  - B. Attorneys' fees and costs incurred in defending and prosecuting claims regarding this matter;
  - C. Any potential settlement payments and other compensation paid to claimants;
  - D. Settlement payments made;
  - E. Litigation and consulting expert fees; and

- F. Overhead and warranty costs other than expenses incurred as a result of this Defendant not honoring its indemnification obligation.
382. Hansen has a specific contractual obligation to repair and remediate, compensate Stock Construction, LLC, and then seek recovery through subrogation against otherwise responsible parties.
383. Hansen, by failing to take affirmative action to assist, indemnify, and hold Stock Construction, LLC, harmless, has caused and exacerbated damages suffered by Stock Construction, LLC.
384. In the event Stock Construction, LLC, obtains a judgment against any responsible party for claims, losses, damages, and expenses arising out of or resulting from Hansen's work, and such judgment is uncollectable, the amount of such uncollected judgment attributable to Hansen's work must be paid by Hansen, as the need for the litigation in obtaining the judgment was proximately caused by Hansen's failure to indemnify and hold harmless Stock Construction, LLC.
385. Stock Construction, LLC, is entitled to all its attorneys' fees and costs and interest on its attorneys' fees and costs incurred in litigating or dealing with claims with other subcontractors, product suppliers, vendors, the engineer, the Association, and any other necessary and proper defendants.
386. Stock Construction, LLC, has retained the law firm of Coleman, Yovanovich & Koester, P.A., to represent it in this matter, has incurred reasonable attorneys' fees and costs in prosecuting this matter, and is entitled to the recovery of the same from Hansen.

387. Stock Construction, LLC, has satisfied all conditions precedent to maintaining this action, or all such conditions precedent have been waived.

**WHEREFORE**, Plaintiff, Stock Construction, LLC, respectfully requests this Court to enter a judgment against Defendant, Hansen Screen Enclosures, Inc., awarding Stock Construction, LLC, its damages, prejudgment interest, attorneys' fees, and costs incurred in this matter, and awarding Stock Construction, LLC, any further relief the Court deems just and appropriate.

**COUNT XXIII – BUILDING CODE VIOLATIONS**  
**(Hansen)**

388. Stock sues Hansen for building code violations.

389. Stock reasserts the allegations contained in paragraphs 1 through 37 above as though fully set forth herein.

390. Stock Construction, LLC, entered into a Subcontractor Base Agreement with Hansen to perform work, including that related to welding, rails, screens and enclosures of buildings in the Ole Community.

391. A true and correct copy of the Subcontractor Base Agreement with Hansen is attached hereto as **Exhibit 5.**

392. The Association has made allegations related to defective work, including, but not limited to, work related to the metal products and Juliet balconies of buildings in the Ole Community.

393. Section 553.84, Florida Statutes, empowers “any person or party” who has been “damaged as a result of a violation of [] the Florida Building Code” to assert a cause of action “against the person or party who committed the violation.”

394. Hansen performed work on and materially participated in the supply and installation of certain metal products, including, but not limited to, Juliet balconies, in buildings in the Ole Community.
395. In so doing, Hansen violated Florida Building Code provisions related to the supply and installation of metal products and associated weather protection/waterproofing.
396. Stock has been damaged as a result of the defective and non-code-compliant work.
397. The defective work has caused damage including rip and tear, water damage, and damage to other property.
398. The defective work has caused damage to other property, including, but not limited to, the interior, trim, other building materials, work of other trades, and personal property with buildings in the Ole Community.
399. Hansen's defective workmanship was a substantial factor in the damage to buildings within the Ole Community, which, under Florida law, renders Hansen liable for all of Stock's damages associated with Hansen's actions.
400. Hansen is liable directly to Stock for the damages caused by and resulting from the building code violations.
401. Stock seeks recovery from Hansen for all damages incurred by Stock in connection with Hansen's building code violations, including without limitation the following:
- A. Investigative repair and remediation costs;
  - B. Attorneys' fees and costs incurred in defending and prosecuting claims regarding this matter;
  - C. Any potential settlement payments and other compensation paid to claimants;
  - D. Settlement payments made;



E. Litigation and consulting expert fees; and

F. Overhead and warranty costs other than expenses incurred as a result of this Defendant not honoring its indemnification obligation.

402. Stock has satisfied all conditions precedent to maintaining this action or all such conditions precedent have been waived.

**WHEREFORE**, Plaintiffs, Stock Construction, LLC, and Stock Development, LLC, respectfully request this Court to enter a judgment against Defendant, Hansen Screen Enclosures, Inc., awarding Plaintiffs their damages, prejudgment interest, attorneys' fees and costs incurred in this matter, and awarding Plaintiffs any further relief the Court deems just and appropriate.

**COUNT XXIV – BREACH OF WARRANTY**  
**(Hansen)**

403. Stock Construction, LLC, sues Hansen for breach of warranty.

404. Stock Construction, LLC, reasserts the allegations contained in paragraphs 1 through 37 above as though fully set forth herein.

405. Stock Construction, LLC, entered into a Subcontractor Base Agreement with Hansen to perform work, including that related to welding, rails, screens and enclosures of buildings in the Ole Community.

406. A true and correct copy of the Subcontractor Base Agreement with Hansen is attached hereto as **Exhibit 5**.

407. The Association has made allegations related to defective work, including, but not limited to, work related to the metal products and Juliet balconies of buildings in the Ole Community.

408. Stock Construction, LLC, has been damaged by Hansen's breach of warranty.

409. Stock Construction, LLC, has been damaged as a result of the defective work.
410. The defective work has caused damage including rip and tear, water damage, and damage to other property.
411. The defective work has caused damage to other property, including, but not limited to, the interior, trim, other building materials, work of other trades, and personal property with buildings in the Ole Community.
412. Stock Construction, LLC, seeks recovery from Hansen for all of Stock Construction, LLC's, damages, including without limitation:
- A. Investigative repair and remediation costs;
  - B. Attorneys' fees and costs incurred in defending and prosecuting claims regarding this matter;
  - C. Any potential settlement payments and other compensation paid to claimants;
  - D. Settlement payments made;
  - E. Litigation and consulting expert fees; and
  - F. Overhead and warranty costs other than expenses incurred as a result of this Defendant not honoring its indemnification obligation.
413. Stock Construction, LLC, has satisfied all conditions precedent to maintaining this action or all such conditions precedent have been waived.

**WHEREFORE**, Plaintiff, Stock Construction, LLC, respectfully requests this Court to enter a judgment against Defendant, Hansen Screen Enclosures, Inc., awarding Stock Construction, LLC, its damages, prejudgment interest, attorneys' fees and costs incurred in this matter, and awarding Stock Construction, LLC, any further relief the Court deems just and appropriate.

**COUNT XXV – BREACH OF CONTRACT**  
**(JMC Coatings)**

- 414. Stock Construction, LLC, sues JMC Coatings for breach of contract.
- 415. Stock Construction, LLC, reasserts the allegations contained in paragraphs 1 through 37 above as though fully set forth herein.
- 416. Stock Construction, LLC, entered into a Subcontractor Base Agreement with JMC Coatings to perform work, including the waterproofing of buildings in the Ole Community.
- 417. A true and correct copy of the Subcontractor Base Agreement with JMC Coatings is attached hereto as **Exhibit 6.**
- 418. The Association has made allegations related to defective work, including that related to the waterproofing of buildings in the Ole Community.
- 419. JMC Coatings performed significant and substantial work related to the waterproofing of buildings in the Ole Community.
- 420. JMC Coatings had a duty to perform its work in a workmanlike manner and in accordance with its contract.
- 421. JMC Coatings breached its contract by performing work which contained defects and was not of workmanlike quality.
- 422. Waterproofing in the Ole Community contained workmanship defects.
- 423. The defective work has caused damage including rip and tear, water damage, and damage to other property.

424. The defective work has caused damage to other property, including, but not limited to, the interior, trim, other building materials, work of other trades, and personal property with buildings in the Ole Community.
425. Stock Construction, LLC, has been damaged as a result of the defective work.
426. Stock Construction, LLC, has suffered damage as a result of JMC Coatings' breach, including, but not limited to, the following:
- A. Investigative repair and remediation costs;
  - B. Attorneys' fees and costs incurred in defending and prosecuting claims regarding this matter;
  - C. Any potential settlement payments and other compensation paid to claimants;
  - D. Settlement payments made;
  - E. Litigation and consulting expert fees; and
  - F. Overhead and warranty costs other than expenses incurred as a result of this Defendant not honoring its indemnification obligation.
427. JMC Coatings' defective workmanship was a substantial factor in the damage to the buildings in the Ole Community, which, under Florida law, renders JMC Coatings liable for all of Stock's damages associated with JMC Coatings' work.
428. Stock Construction, LLC, has been damaged by JMC Coatings' breach.
429. The damages include, without limitation, remediation damages, overpayment, *et cetera*.
430. Stock Construction, LLC, has retained the law firm of Coleman, Yovanovich & Koester, P.A., to represent it in this matter, has incurred reasonable attorneys' fees

and costs in prosecuting this matter, and is entitled to the recovery of the same from JMC Coatings.

431. Stock Construction, LLC, has satisfied all conditions precedent to maintaining this action, or all such conditions precedent have been waived.

**WHEREFORE**, Plaintiff, Stock Construction, LLC, respectfully request this Court to enter a judgment against Defendant, JMC Coatings, LLC, awarding Stock Construction, LLC, its damages, prejudgment interest, attorneys' fees, and costs incurred in this matter, and awarding Stock Construction, LLC, any further relief the Court deems just and appropriate.

**COUNT XXVI – CONTRACTUAL INDEMNIFICATION**  
**(JMC Coatings)**

432. Stock Construction, LLC, sues JMC Coatings for contractual indemnification based on claims, losses, damages, and expenses arising out of or resulting from JMC Coatings' work.
433. Stock Construction, LLC, reasserts the allegations contained in paragraphs 1 through 37 above as though fully set forth herein.
434. Stock Construction, LLC, entered into a Subcontractor Base Agreement with JMC Coatings to perform work, including the waterproofing of buildings in the Ole Community.
435. A true and correct copy of the Subcontractor Base Agreement with JMC Coatings is attached hereto as **Exhibit 6.**
436. The Association has made allegations related to defective work, including that related to the waterproofing of buildings in the Ole Community.

437. The defective work has caused damage including rip and tear, water damage, and damage to other property.
438. The defective work has caused damage to other property, including, but not limited to, the interior, trim, other building materials, work of other trades, and personal property with buildings in the Ole Community.
439. Stock Construction, LLC, has been damaged as a result of the defective work.
440. JMC Coatings entered into the Subcontractor Base Agreement with Stock Construction, LLC, and through the Subcontract, specifically provided contractual indemnity to Stock Construction, LLC, and the Owner.
441. Despite demand, notice and opportunity to indemnify Stock Construction, LLC, JMC Coatings has failed to do so.
442. Pursuant to JMC Coatings' Subcontract, JMC Coatings is obligated to pay Stock Construction, LLC's, attorneys' fees and costs.
443. Stock Construction, LLC, has suffered damage as a result of JMC Coatings' failure to indemnify Stock Construction, LLC, including but not limited to the following:
- A. Investigative repair and remediation costs;
  - B. Attorneys' fees and costs incurred in defending and prosecuting claims regarding this matter;
  - C. Any potential settlement payments and other compensation paid to claimants;
  - D. Settlement payments made;
  - E. Litigation and consulting expert fees; and
  - F. Overhead and warranty costs other than expenses incurred as a result of this Defendant not honoring its indemnification obligation.

444. JMC Coatings has a specific contractual obligation to repair and remediate, compensate Stock Construction, LLC, and then seek recovery through subrogation against otherwise responsible parties.
445. JMC Coatings, by failing to take affirmative action to assist, indemnify, and hold Stock Construction, LLC, harmless, has caused and exacerbated damages suffered by Stock Construction, LLC.
446. In the event Stock Construction, LLC, obtains a judgment against any responsible party for claims, losses, damages, and expenses arising out of or resulting from JMC Coatings' work, and such judgment is uncollectable, the amount of such uncollected judgment attributable to JMC Coatings' work must be paid by JMC Coatings, as the need for the litigation in obtaining the judgment was proximately caused by JMC Coatings' failure to indemnify and hold harmless Stock Construction, LLC.
447. Stock Construction, LLC, is entitled to all its attorneys' fees and costs and interest on its attorneys' fees and costs incurred in litigating or dealing with claims with other subcontractors, product suppliers, vendors, the engineer, the Association, and any other necessary and proper defendants.
448. Stock Construction, LLC, has retained the law firm of Coleman, Yovanovich & Koester, P.A., to represent it in this matter, has incurred reasonable attorneys' fees and costs in prosecuting this matter, and is entitled to the recovery of the same from JMC Coatings.
449. Stock Construction, LLC, has satisfied all conditions precedent to maintaining this action, or all such conditions precedent have been waived.

**WHEREFORE**, Plaintiff, Stock Construction, LLC, respectfully request this Court to enter a judgment against Defendant, JMC Coatings, LLC, awarding Stock Construction, LLC, its damages, prejudgment interest, attorneys' fees, and costs incurred in this matter, and awarding Stock Construction, LLC, any further relief the Court deems just and appropriate.

**COUNT XXVII – BUILDING CODE VIOLATIONS**  
**(JMC Coatings)**

- 450. Stock sues JMC Coatings for building code violations.
- 451. Stock reasserts the allegations contained in paragraphs 1 through 37 above as though fully set forth herein.
- 452. Stock Construction, LLC, entered into a Subcontractor Base Agreement with JMC Coatings to perform work, including the waterproofing of buildings in the Ole Community.
- 453. A true and correct copy of the Subcontractor Base Agreement with JMC Coatings is attached hereto as **Exhibit 6.**
- 454. The Association has made allegations related to defective work, including that related to the waterproofing of buildings in the Ole Community.
- 455. Section 553.84, Florida Statutes, empowers “any person or party” who has been “damaged as a result of a violation of [] the Florida Building Code” to assert a cause of action “against the person or party who committed the violation.”
- 456. JMC Coatings performed work on and materially participated in the waterproofing of buildings in the Ole Community.
- 457. In so doing, JMC Coatings violated Florida Building Code provisions related to waterproofing.



458. Stock has been damaged as a result of the defective and non-code-compliant work.
459. The defective work has caused damage including rip and tear, water damage, and damage to other property.
460. The defective work has caused damage to other property, including, but not limited to, the interior, trim, other building materials, work of other trades, and personal property with buildings in the Ole Community.
461. JMC Coatings' defective workmanship was a substantial factor in the damage to buildings within the Ole Community, which, under Florida law, renders JMC Coatings liable for all of Stock's damages associated with JMC Coatings' actions.
462. JMC Coatings is liable directly to Stock for the damages caused by and resulting from the building code violations.
463. Stock seeks recovery from JMC Coatings for all damages incurred by Stock in connection with JMC Coatings' building code violations, including without limitation the following:
- A. Investigative repair and remediation costs;
  - B. Attorneys' fees and costs incurred in defending and prosecuting claims regarding this matter;
  - C. Any potential settlement payments and other compensation paid to claimants;
  - D. Settlement payments made;
  - E. Litigation and consulting expert fees; and
  - F. Overhead and warranty costs other than expenses incurred as a result of this Defendant not honoring its indemnification obligation.

464. Stock has satisfied all conditions precedent to maintaining this action or all such conditions precedent have been waived.

**WHEREFORE**, Plaintiffs, Stock Development, LLC, and Stock Construction, LLC, respectfully request this Court to enter a judgment against Defendant, JMC Coatings, LLC, awarding Plaintiffs their damages, prejudgment interest, attorneys' fees and costs incurred in this matter, and awarding Plaintiffs any further relief the Court deems just and appropriate.

**COUNT XXVIII – BREACH OF WARRANTY**  
**(JMC Coatings)**

465. Stock Construction, LLC, sues JMC Coatings for breach of warranty.

466. Stock Construction, LLC, reasserts the allegations contained in paragraphs 1 through 37 above as though fully set forth herein.

467. Stock Construction, LLC, entered into a Subcontractor Base Agreement with JMC Coatings to perform work, including the waterproofing of buildings in the Ole Community.

468. A true and correct copy of the Subcontractor Base Agreement with JMC Coatings is attached hereto as **Exhibit 6**.

469. The Association has made allegations related to defective work, including that related to the waterproofing of buildings in the Ole Community.

470. Stock Construction, LLC, has provided notice to JMC Coatings breaching its warranty obligations for the work performed by JMC Coatings in the Ole Community.

471. Stock Construction, LLC, has been damaged by JMC Coatings' breach of warranty.

472. Stock Construction, LLC, has been damaged as a result of the defective work.

473. The defective work has caused damage including rip and tear, water damage, and damage to other property.
474. The defective work has caused damage to other property, including, but not limited to, the interior, trim, other building materials, work of other trades, and personal property with buildings in the Ole Community.
475. Stock Construction, LLC, seeks recovery from JMC Coatings for all of Stock Construction, LLC's, damages, including without limitation:
- A. Investigative repair and remediation costs;
  - B. Attorneys' fees and costs incurred in defending and prosecuting claims regarding this matter;
  - C. Any potential settlement payments and other compensation paid to claimants;
  - D. Settlement payments made;
  - E. Litigation and consulting expert fees; and
  - F. Overhead and warranty costs other than expenses incurred as a result of this Defendant not honoring its indemnification obligation.
476. Stock has satisfied all conditions precedent to maintaining this action or all such conditions precedent have been waived.

**WHEREFORE**, Plaintiff, Stock Construction, LLC, respectfully request this Court to enter a judgment against Defendant, JMC Coatings, LLC, awarding Stock Construction, LLC, its damages, prejudgment interest, attorneys' fees and costs incurred in this matter, and awarding Stock Construction, LLC, any further relief the Court deems just and appropriate.

**COUNT XXIX – BREACH OF CONTRACT**  
**(JMC PAINTING)**

477. Stock Construction, LLC, sues JMC Painting for breach of contract.
478. Stock Construction, LLC, reasserts the allegations contained in paragraphs 1 through 37 above as though fully set forth herein.
479. Stock Construction, LLC, entered into a Subcontractor Base Agreement with JMC Painting to perform work, including the waterproofing of buildings in the Ole Community.
480. True and correct copies of the Subcontractor Base Agreements with JMC Painting are attached hereto as **Composite Exhibit 7.**
481. The Association has made allegations related to defective work, including that related to the waterproofing of buildings in the Ole Community.
482. JMC Painting performed significant and substantial work related to the waterproofing of buildings in the Ole Community.
483. JMC Painting had a duty to perform its work in a workmanlike manner and in accordance with its contract.
484. JMC Painting breached its contract by performing work which contained defects and was not of workmanlike quality.
485. Waterproofing in the Ole Community contained workmanship defects.
486. The defective work has caused damage including rip and tear, water damage, and damage to other property.

487. The defective work has caused damage to other property, including, but not limited to, the interior, trim, other building materials, work of other trades, and personal property with buildings in the Ole Community.
488. Stock Construction, LLC, has been damaged as a result of the defective work.
489. Stock Construction, LLC, has suffered damage as a result of JMC Painting's breach, including, but not limited to, the following:
- A. Investigative repair and remediation costs;
  - B. Attorneys' fees and costs incurred in defending and prosecuting claims regarding this matter;
  - C. Any potential settlement payments and other compensation paid to claimants;
  - D. Settlement payments made;
  - E. Litigation and consulting expert fees; and
  - F. Overhead and warranty costs other than expenses incurred as a result of this Defendant not honoring its indemnification obligation.
490. JMC Painting's defective workmanship was a substantial factor in the damage to the buildings in the Ole Community, which, under Florida law, renders JMC Painting liable for all of Stock's damages associated with JMC Painting's work.
491. Stock Construction, LLC, has been damaged by JMC Painting's breach.
492. The damages include, without limitation, remediation damages, overpayment, *et cetera*.
493. Stock Construction, LLC, has retained the law firm of Coleman, Yovanovich & Koester, P.A., to represent it in this matter, has incurred reasonable attorneys' fees

and costs in prosecuting this matter, and is entitled to the recovery of the same from JMC Painting.

494. Stock Construction, LLC, has satisfied all conditions precedent to maintaining this action, or all such conditions precedent have been waived.

**WHEREFORE**, Plaintiff, Stock Construction, LLC, respectfully request this Court to enter a judgment against Defendant, JMC Painting & Waterproofing, Inc., awarding Stock Construction, LLC, its damages, prejudgment interest, attorneys' fees, and costs incurred in this matter, and awarding Stock Construction, LLC, any further relief the Court deems just and appropriate.

**COUNT XXX – CONTRACTUAL INDEMNIFICATION**  
**(JMC PAINTING)**

495. Stock Construction, LLC, sues JMC Painting for contractual indemnification based on claims, losses, damages, and expenses arising out of or resulting from JMC Painting's work.
496. Stock Construction, LLC, reasserts the allegations contained in paragraphs 1 through 37 above as though fully set forth herein.
497. Stock Construction, LLC, entered into a Subcontractor Base Agreement with JMC Painting to perform work, including the waterproofing of buildings in the Ole Community.
498. True and correct copies of the Subcontractor Base Agreements with JMC Painting are attached hereto as **Composite Exhibit 7.**
499. The Association has made allegations related to defective work, including that related to the waterproofing of buildings in the Ole Community.

500. The defective work has caused damage including rip and tear, water damage, and damage to other property.
501. The defective work has caused damage to other property, including, but not limited to, the interior, trim, other building materials, work of other trades, and personal property with buildings in the Ole Community.
502. Stock Construction, LLC, has been damaged as a result of the defective work.
503. JMC Painting entered into the Subcontractor Base Agreement with Stock Construction, LLC, and through the Subcontract, specifically provided contractual indemnity to Stock Construction, LLC, and the Owner.
504. Despite demand, notice and opportunity to indemnify Stock Construction, LLC, JMC Painting has failed to do so.
505. Pursuant to JMC Painting's Subcontract, JMC Painting is obligated to pay Stock Construction, LLC's, attorneys' fees and costs.
506. Stock Construction, LLC, has suffered damage as a result of JMC Painting's failure to indemnify Stock Construction, LLC, including but not limited to the following:
- A. Investigative repair and remediation costs;
  - B. Attorneys' fees and costs incurred in defending and prosecuting claims regarding this matter;
  - C. Any potential settlement payments and other compensation paid to claimants;
  - D. Settlement payments made;
  - E. Litigation and consulting expert fees; and
  - F. Overhead and warranty costs other than expenses incurred as a result of this Defendant not honoring its indemnification obligation.

507. JMC Painting has a specific contractual obligation to repair and remediate, compensate Stock Construction, LLC, and then seek recovery through subrogation against otherwise responsible parties.
508. JMC Painting, by failing to take affirmative action to assist, indemnify, and hold Stock Construction, LLC, harmless, has caused and exacerbated damages suffered by Stock Construction, LLC.
509. In the event Stock Construction, LLC, obtains a judgment against any responsible party for claims, losses, damages, and expenses arising out of or resulting from JMC Painting's work, and such judgment is uncollectable, the amount of such uncollected judgment attributable to JMC Painting's work must be paid by JMC Painting, as the need for the litigation in obtaining the judgment was proximately caused by JMC Painting's failure to indemnify and hold harmless Stock Construction, LLC.
510. Stock Construction, LLC, is entitled to all its attorneys' fees and costs and interest on its attorneys' fees and costs incurred in litigating or dealing with claims with other subcontractors, product suppliers, vendors, the engineer, the Association, and any other necessary and proper defendants.
511. Stock Construction, LLC, has retained the law firm of Coleman, Yovanovich & Koester, P.A., to represent it in this matter, has incurred reasonable attorneys' fees and costs in prosecuting this matter, and is entitled to the recovery of the same from JMC Painting.
512. Stock Construction, LLC, has satisfied all conditions precedent to maintaining this action, or all such conditions precedent have been waived.



**WHEREFORE**, Plaintiff, Stock Construction, LLC, respectfully request this Court to enter a judgment against Defendant, JMC Painting & Waterproofing, Inc., awarding Stock Construction, LLC, its damages, prejudgment interest, attorneys' fees, and costs incurred in this matter, and awarding Stock Construction, LLC, any further relief the Court deems just and appropriate.

**COUNT XXXI – BUILDING CODE VIOLATIONS**  
**(JMC PAINTING)**

- 513. Stock sues JMC PAINTING for building code violations.
- 514. Stock reasserts the allegations contained in paragraphs 1 through 37 above as though fully set forth herein.
- 515. Stock Construction, LLC, entered into a Subcontractor Base Agreement with JMC Painting to perform work, including the waterproofing of buildings in the Ole Community.
- 516. True and correct copies of the Subcontractor Base Agreements with JMC Painting are attached hereto as **Composite Exhibit 7.**
- 517. The Association has made allegations related to defective work, including that related to the waterproofing of buildings in the Ole Community.
- 518. Section 553.84, Florida Statutes, empowers “any person or party” who has been “damaged as a result of a violation of [] the Florida Building Code” to assert a cause of action “against the person or party who committed the violation.”
- 519. JMC Painting performed work on and materially participated in the waterproofing of buildings in the Ole Community.

520. In so doing, JMC Painting violated Florida Building Code provisions related to waterproofing.
521. Stock has been damaged as a result of the defective and non-code-compliant work.
522. The defective work has caused damage including rip and tear, water damage, and damage to other property.
523. The defective work has caused damage to other property, including, but not limited to, the interior, trim, other building materials, work of other trades, and personal property with buildings in the Ole Community.
524. JMC Painting's defective workmanship was a substantial factor in the damage to buildings within the Ole Community, which, under Florida law, renders JMC Painting liable for all of Stock's damages associated with JMC Painting's actions.
525. JMC Painting is liable directly to Stock for the damages caused by and resulting from the building code violations.
526. Stock seeks recovery from JMC Painting for all damages incurred by Stock in connection with JMC Painting's building code violations, including without limitation the following:
- A. Investigative repair and remediation costs;
  - B. Attorneys' fees and costs incurred in defending and prosecuting claims regarding this matter;
  - C. Any potential settlement payments and other compensation paid to claimants;
  - D. Settlement payments made;
  - E. Litigation and consulting expert fees; and

F. Overhead and warranty costs other than expenses incurred as a result of this Defendant not honoring its indemnification obligation.

527. Stock has satisfied all conditions precedent to maintaining this action or all such conditions precedent have been waived.

**WHEREFORE**, Plaintiffs, Stock Development, LLC, and Stock Construction, LLC, respectfully request this Court to enter a judgment against Defendant, JMC Painting & Waterproofing, Inc., awarding Plaintiffs their damages, prejudgment interest, attorneys' fees and costs incurred in this matter, and awarding Plaintiffs any further relief the Court deems just and appropriate.

**COUNT XXXII – BREACH OF WARRANTY**  
**(JMC PAINTING)**

528. Stock Construction, LLC, sues JMC Painting for breach of warranty.

529. Stock Construction, LLC, reasserts the allegations contained in paragraphs 1 through 37 above as though fully set forth herein.

530. Stock Construction, LLC, entered into a Subcontractor Base Agreement with JMC Painting to perform work, including the waterproofing of buildings in the Ole Community.

531. True and correct copies of the Subcontractor Base Agreements with JMC Painting are attached hereto as **Composite Exhibit 7.**

532. The Association has made allegations related to defective work, including that related to the waterproofing of buildings in the Ole Community.

533. Stock Construction, LLC, has provided notice to JMC Painting breaching its warranty obligations for the work performed by JMC Painting in the Ole Community.

534. Stock Construction, LLC, has been damaged by JMC Painting's breach of warranty.
535. Stock Construction, LLC, has been damaged as a result of the defective work.
536. The defective work has caused damage including rip and tear, water damage, and damage to other property.
537. The defective work has caused damage to other property, including, but not limited to, the interior, trim, other building materials, work of other trades, and personal property with buildings in the Ole Community.
538. Stock Construction, LLC, seeks recovery from JMC Painting for all of Stock Construction, LLC's, damages, including without limitation:
- A. Investigative repair and remediation costs;
  - B. Attorneys' fees and costs incurred in defending and prosecuting claims regarding this matter;
  - C. Any potential settlement payments and other compensation paid to claimants;
  - D. Settlement payments made;
  - E. Litigation and consulting expert fees; and
  - F. Overhead and warranty costs other than expenses incurred as a result of this Defendant not honoring its indemnification obligation.
539. Stock has satisfied all conditions precedent to maintaining this action or all such conditions precedent have been waived.

**WHEREFORE**, Plaintiff, Stock Construction, LLC, respectfully request this Court to enter a judgment against Defendant, JMC Painting & Waterproofing, Inc., awarding Stock Construction, LLC, its damages, prejudgment interest, attorneys' fees and costs incurred in this

matter, and awarding Stock Construction, LLC, any further relief the Court deems just and appropriate.

**COUNT XXXIII – BREACH OF CONTRACT**  
**(Pace)**

- 540. Stock Construction, LLC, sues Pace for breach of contract.
- 541. Stock Construction, LLC, reasserts the allegations contained in paragraphs 1 through 37 above as though fully set forth herein.
- 542. Stock Construction, LLC, entered into a Subcontractor Base Agreement with Pace to perform work, including the screen enclosures for the buildings and pool decks, extended lanais, and under trusses, mechanical railing, picket panels, and grab rails of buildings in the Ole Community.
- 543. A true and correct copy of the Subcontractor Base Agreement with Pace is attached hereto as **Exhibit 8.**
- 544. The Association has made allegations related to defective work, including, but not limited to, that related to the enclosures and metal products of buildings in the Ole Community.
- 545. Pace performed significant and substantial work related to the enclosures and metal products of buildings in the Ole Community.
- 546. Pace had a duty to perform its work in a workmanlike manner and in accordance with its contract.
- 547. Pace breached its contract by performing work which contained defects and was not of workmanlike quality.

548. Enclosures and metal products in the Ole Community contained workmanship defects.
549. The defective work has caused damage including rip and tear, water damage, and damage to other property.
550. The defective work has caused damage to other property, including, but not limited to, the interior, trim, other building materials, work of other trades, and personal property with buildings in the Ole Community.
551. Stock Construction, LLC, has been damaged as a result of the defective work.
552. Stock Construction, LLC, has suffered damage as a result of Pace's breach, including, but not limited to, the following:
- A. Investigative repair and remediation costs;
  - B. Attorneys' fees and costs incurred in defending and prosecuting claims regarding this matter;
  - C. Any potential settlement payments and other compensation paid to claimants;
  - D. Settlement payments made;
  - E. Litigation and consulting expert fees; and
  - F. Overhead and warranty costs other than expenses incurred as a result of this Defendant not honoring its indemnification obligation.
553. Pace's defective workmanship was a substantial factor in the damage to the buildings in the Ole Community, which, under Florida law, renders Pace liable for all of Stock's damages associated with Pace's work.
554. Stock Construction, LLC, has been damaged by Pace's breach.

555. The damages include, without limitation, remediation damages, overpayment, *et cetera*.
556. Stock Construction, LLC, has retained the law firm of Coleman, Yovanovich & Koester, P.A., to represent it in this matter, has incurred reasonable attorneys' fees and costs in prosecuting this matter, and is entitled to the recovery of the same from Pace.
557. Stock Construction, LLC, has satisfied all conditions precedent to maintaining this action, or all such conditions precedent have been waived.

**WHEREFORE**, Plaintiff, Stock Construction, LLC, respectfully request this Court to enter a judgment against Defendant, Pace Enclosures, Inc., awarding Stock Construction, LLC, its damages, prejudgment interest, attorneys' fees, and costs incurred in this matter, and awarding Stock Construction, LLC, any further relief the Court deems just and appropriate.

**COUNT XXXIV – CONTRACTUAL INDEMNIFICATION**  
**(Pace)**

558. Stock Construction, LLC, sues Pace for contractual indemnification based on claims, losses, damages, and expenses arising out of or resulting from Pace's work.
559. Stock Construction, LLC, reasserts the allegations contained in paragraphs 1 through 37 above as though fully set forth herein.
560. Stock Construction, LLC, entered into a Subcontractor Base Agreement with Pace to perform work, including the screen enclosures for the buildings and pool decks, extended lanais, and under trusses, mechanical railing, picket panels, and grab rails of buildings in the Ole Community.
561. A true and correct copy of the Subcontractor Base Agreement with Pace is attached

hereto as **Exhibit 8.**

562. The Association has made allegations related to defective work, including, but not limited to, that related to the enclosures and metal products of buildings in the Ole Community.
563. The defective work has caused damage including rip and tear, water damage, and damage to other property.
564. The defective work has caused damage to other property, including, but not limited to, the interior, trim, other building materials, work of other trades, and personal property with buildings in the Ole Community.
565. Stock Construction, LLC, has been damaged as a result of the defective work.
566. Pace entered into the Subcontractor Base Agreement with Stock Construction, LLC, and through the Subcontract, specifically provided contractual indemnity to Stock Construction, LLC, and the Owner.
567. Despite demand, notice and opportunity to indemnify Stock Construction, LLC, Pace has failed to do so.
568. Pursuant to Pace's Subcontract, Pace is obligated to pay Stock Construction, LLC's, attorneys' fees and costs.
569. Stock Construction, LLC, has suffered damage as a result of Pace's failure to indemnify Stock Construction, LLC, including but not limited to the following:
- A. Investigative repair and remediation costs;
  - B. Attorneys' fees and costs incurred in defending and prosecuting claims regarding this matter;
  - C. Any potential settlement payments and other compensation paid to claimants;



- D. Settlement payments made;
  - E. Litigation and consulting expert fees; and
  - F. Overhead and warranty costs other than expenses incurred as a result of this Defendant not honoring its indemnification obligation.
570. Pace has a specific contractual obligation to repair and remediate, compensate Stock Construction, LLC, and then seek recovery through subrogation against otherwise responsible parties.
571. Pace, by failing to take affirmative action to assist, indemnify, and hold Stock Construction, LLC, harmless, has caused and exacerbated damages suffered by Stock Construction, LLC.
572. In the event Stock Construction, LLC, obtains a judgment against any responsible party for claims, losses, damages, and expenses arising out of or resulting from Pace's work, and such judgment is uncollectable, the amount of such uncollected judgment attributable to Pace's work must be paid by Pace, as the need for the litigation in obtaining the judgment was proximately caused by Pace's failure to indemnify and hold harmless Stock Construction, LLC.
573. Stock Construction, LLC, is entitled to all its attorneys' fees and costs and interest on its attorneys' fees and costs incurred in litigating or dealing with claims with other subcontractors, product suppliers, vendors, the engineer, the Association, and any other necessary and proper defendants.
574. Stock Construction, LLC, has retained the law firm of Coleman, Yovanovich & Koester, P.A., to represent it in this matter, has incurred reasonable attorneys' fees

and costs in prosecuting this matter, and is entitled to the recovery of the same from Pace.

575. Stock Construction, LLC, has satisfied all conditions precedent to maintaining this action, or all such conditions precedent have been waived.

**WHEREFORE**, Plaintiff, Stock Construction, LLC, respectfully request this Court to enter a judgment against Defendant, Pace Enclosures, Inc., awarding Stock Construction, LLC, its damages, prejudgment interest, attorneys' fees, and costs incurred in this matter, and awarding Stock Construction, LLC, any further relief the Court deems just and appropriate.

**COUNT XXXV – BUILDING CODE VIOLATIONS**  
(Pace)

576. Stock sues Pace for building code violations.
577. Stock reasserts the allegations contained in paragraphs 1 through 37 above as though fully set forth herein.
578. Stock Construction, LLC, entered into a Subcontractor Base Agreement with Pace to perform work, including the screen enclosures for the buildings and pool decks, extended lanais, and under trusses, mechanical railing, picket panels, and grab rails of buildings in the Ole Community.
579. A true and correct copy of the Subcontractor Base Agreement with Pace is attached hereto as **Exhibit 8.**
580. The Association has made allegations related to defective work, including, but not limited to, that related to the enclosures and metal products of buildings in the Ole Community.

581. Section 553.84, Florida Statutes, empowers “any person or party” who has been “damaged as a result of a violation of [] the Florida Building Code” to assert a cause of action “against the person or party who committed the violation.”
582. Pace performed work on and materially participated in the installation of enclosures and metal products of buildings in the Ole Community.
583. In so doing, Pace violated Florida Building Code provisions related to the enclosures and metal products and associated waterproofing.
584. Stock has been damaged as a result of the defective and non-code-compliant work.
585. The defective work has caused damage including rip and tear, water damage, and damage to other property.
586. The defective work has caused damage to other property, including, but not limited to, the interior, trim, other building materials, work of other trades, and personal property with buildings in the Ole Community.
587. Pace’s defective workmanship was a substantial factor in the damage to buildings within the Ole Community, which, under Florida law, renders Pace liable for all of Stock’s damages associated with Pace’s actions.
588. Pace is liable directly to Stock for the damages caused by and resulting from the building code violations.
589. Stock seeks recovery from Pace for all damages incurred by Stock in connection with Pace’s building code violations, including without limitation the following:
- A. Investigative repair and remediation costs;
  - B. Attorneys’ fees and costs incurred in defending and prosecuting claims regarding this matter;

- C. Any potential settlement payments and other compensation paid to claimants;
- D. Settlement payments made;
- E. Litigation and consulting expert fees; and
- F. Overhead and warranty costs other than expenses incurred as a result of this Defendant not honoring its indemnification obligation.

590. Stock has satisfied all conditions precedent to maintaining this action or all such conditions precedent have been waived.

**WHEREFORE**, Plaintiffs, Stock Development, LLC, and Stock Construction, LLC, respectfully request this Court to enter a judgment against Defendant, Pace Enclosures, Inc., awarding Plaintiffs their damages, prejudgment interest, attorneys' fees and costs incurred in this matter, and awarding Plaintiffs any further relief the Court deems just and appropriate.

**COUNT XXXVI – BREACH OF WARRANTY**  
**(Pace)**

- 591. Stock Construction, LLC, sues Pace for breach of warranty.
- 592. Stock Construction, LLC, reasserts the allegations contained in paragraphs 1 through 37 above as though fully set forth herein.
- 593. Stock Construction, LLC, entered into a Subcontractor Base Agreement with Pace to perform work, including the screen enclosures for the buildings and pool decks, extended lanais, and under trusses, mechanical railing, picket panels, and grab rails of buildings in the Ole Community.
- 594. A true and correct copy of the Subcontractor Base Agreement with Pace is attached hereto as **Exhibit 8.**
- 595. The Association has made allegations related to defective work, including, but not

- limited to, that related to the enclosures and metal products of buildings in the Ole Community.
596. Stock Construction, LLC, has provided notice to Pace breaching its warranty obligations for the work performed by Pace in the Ole Community.
597. Stock Construction, LLC, has been damaged by Pace's breach of warranty.
598. Stock Construction, LLC, has been damaged as a result of the defective work.
599. The defective work has caused damage including rip and tear, water damage, and damage to other property.
600. The defective work has caused damage to other property, including, but not limited to, the interior, trim, other building materials, work of other trades, and personal property with buildings in the Ole Community.
601. Stock Construction, LLC, seeks recovery from Pace for all of Stock Construction, LLC's, damages, including without limitation:
- A. Investigative repair and remediation costs;
  - B. Attorneys' fees and costs incurred in defending and prosecuting claims regarding this matter;
  - C. Any potential settlement payments and other compensation paid to claimants;
  - D. Settlement payments made;
  - E. Litigation and consulting expert fees; and
  - F. Overhead and warranty costs other than expenses incurred as a result of this Defendant not honoring its indemnification obligation.
602. Stock has satisfied all conditions precedent to maintaining this action or all such conditions precedent have been waived.

**WHEREFORE**, Plaintiff, Stock Construction, LLC, respectfully request this Court to enter a judgment against Defendant, Pace Enclosures, Inc., awarding Stock Construction, LLC, its damages, prejudgment interest, attorneys' fees and costs incurred in this matter, and awarding Stock Construction, LLC, any further relief the Court deems just and appropriate.

**COUNT XXXVII – BREACH OF CONTRACT**  
**(Prime)**

- 603. Stock Construction, LLC, sues Prime for breach of contract.
- 604. Stock Construction, LLC, reasserts the allegations contained in paragraphs 1 through 37 above as though fully set forth herein.
- 605. Stock Construction, LLC, entered into a Subcontractor Base Agreement with Prime to perform work, including the exterior and interior painting of buildings in the Ole Community.
- 606. A true and correct copy of the Subcontractor Base Agreement with Prime is attached hereto as **Exhibit 9**.
- 607. The Association has made allegations related to defective work, including that related to the painting of buildings in the Ole Community.
- 608. Prime performed significant and substantial work related to the painting of buildings in the Ole Community.
- 609. Prime had a duty to perform its work in a workmanlike manner and in accordance with its contract.
- 610. Prime breached its contract by performing work which contained defects and was not of workmanlike quality.
- 611. Painting in the Ole Community contained workmanship defects.

612. The defective work has caused damage including rip and tear, water damage, and damage to other property.
613. The defective work has caused damage to other property, including, but not limited to, the interior, trim, other building materials, work of other trades, and personal property with buildings in the Ole Community.
614. Stock Construction, LLC, has been damaged as a result of the defective work.
615. Stock Construction, LLC, has suffered damage as a result of Prime's breach, including, but not limited to, the following:
- A. Investigative repair and remediation costs;
  - B. Attorneys' fees and costs incurred in defending and prosecuting claims regarding this matter;
  - C. Any potential settlement payments and other compensation paid to claimants;
  - D. Settlement payments made;
  - E. Litigation and consulting expert fees; and
  - F. Overhead and warranty costs other than expenses incurred as a result of this Defendant not honoring its indemnification obligation.
616. Prime's defective workmanship was a substantial factor in the damage to the buildings in the Ole Community, which, under Florida law, renders Prime liable for all of Stock's damages associated with Prime's work.
617. Stock Construction, LLC, has been damaged by Prime's breach.
618. The damages include, without limitation, remediation damages, overpayment, *et cetera*.

619. Stock Construction, LLC, has retained the law firm of Coleman, Yovanovich & Koester, P.A., to represent it in this matter, has incurred reasonable attorneys' fees and costs in prosecuting this matter, and is entitled to the recovery of the same from Prime.

620. Stock Construction, LLC, has satisfied all conditions precedent to maintaining this action, or all such conditions precedent have been waived.

**WHEREFORE**, Plaintiff, Stock Construction, LLC, respectfully request this Court to enter a judgment against Defendant, Prime Drywall & Painting, Inc., awarding Stock Construction, LLC, its damages, prejudgment interest, attorneys' fees, and costs incurred in this matter, and awarding Stock Construction, LLC, any further relief the Court deems just and appropriate.

**COUNT XXXVIII – CONTRACTUAL INDEMNIFICATION**  
**(Prime)**

621. Stock Construction, LLC, sues Prime for contractual indemnification based on claims, losses, damages, and expenses arising out of or resulting from Prime's work.

622. Stock Construction, LLC, reasserts the allegations contained in paragraphs 1 through 37 above as though fully set forth herein.

623. Stock Construction, LLC, entered into a Subcontractor Base Agreement with Prime to perform work, including the exterior and interior painting of buildings in the Ole Community.

624. A true and correct copy of the Subcontractor Base Agreement with Prime is attached hereto as **Exhibit 9**.

625. The Association has made allegations related to defective work, including that related



- to the painting of buildings in the Ole Community.
626. The defective work has caused damage including rip and tear, water damage, and damage to other property.
627. The defective work has caused damage to other property, including, but not limited to, the interior, trim, other building materials, work of other trades, and personal property with buildings in the Ole Community.
628. Stock Construction, LLC, has been damaged as a result of the defective work.
629. Prime entered into the Subcontractor Base Agreement with Stock Construction, LLC, and through the Subcontract, specifically provided contractual indemnity to Stock Construction, LLC, and the Owner.
630. Despite demand, notice and opportunity to indemnify Stock Construction, LLC, Prime has failed to do so.
631. Pursuant to Prime's Subcontract, Prime is obligated to pay Stock Construction, LLC's, attorneys' fees and costs.
632. Stock Construction, LLC, has suffered damage as a result of Prime's failure to indemnify Stock Construction, LLC, including but not limited to the following:
- A. Investigative repair and remediation costs;
  - B. Attorneys' fees and costs incurred in defending and prosecuting claims regarding this matter;
  - C. Any potential settlement payments and other compensation paid to claimants;
  - D. Settlement payments made;
  - E. Litigation and consulting expert fees; and

F. Overhead and warranty costs other than expenses incurred as a result of this Defendant not honoring its indemnification obligation.

633. Prime has a specific contractual obligation to repair and remediate, compensate Stock Construction, LLC, and then seek recovery through subrogation against otherwise responsible parties.
634. Prime, by failing to take affirmative action to assist, indemnify, and hold Stock Construction, LLC, harmless, has caused and exacerbated damages suffered by Stock Construction, LLC.
635. In the event Stock Construction, LLC, obtains a judgment against any responsible party for claims, losses, damages, and expenses arising out of or resulting from Prime's work, and such judgment is uncollectable, the amount of such uncollected judgment attributable to Prime's work must be paid by Prime, as the need for the litigation in obtaining the judgment was proximately caused by Prime's failure to indemnify and hold harmless Stock Construction, LLC.
636. Stock Construction, LLC, is entitled to all its attorneys' fees and costs and interest on its attorneys' fees and costs incurred in litigating or dealing with claims with other subcontractors, product suppliers, vendors, the engineer, the Association, and any other necessary and proper defendants.
637. Stock Construction, LLC, has retained the law firm of Coleman, Yovanovich & Koester, P.A., to represent it in this matter, has incurred reasonable attorneys' fees and costs in prosecuting this matter, and is entitled to the recovery of the same from Prime.

638. Stock Construction, LLC, has satisfied all conditions precedent to maintaining this action, or all such conditions precedent have been waived.

**WHEREFORE**, Plaintiff, Stock Construction, LLC, respectfully request this Court to enter a judgment against Defendant, Prime Drywall & Painting, Inc., awarding Stock Construction, LLC, its damages, prejudgment interest, attorneys' fees, and costs incurred in this matter, and awarding Stock Construction, LLC, any further relief the Court deems just and appropriate.

**COUNT XXXIX – BUILDING CODE VIOLATIONS**  
**(Prime)**

639. Stock sues Prime for building code violations.

640. Stock reasserts the allegations contained in paragraphs 1 through 37 above as though fully set forth herein.

641. Stock Construction, LLC, entered into a Subcontractor Base Agreement with Prime to perform work, including the exterior and interior painting of buildings in the Ole Community.

642. A true and correct copy of the Subcontractor Base Agreement with Prime is attached hereto as **Exhibit 9**.

643. The Association has made allegations related to defective work, including that related to the painting of buildings in the Ole Community.

644. Section 553.84, Florida Statutes, empowers “any person or party” who has been “damaged as a result of a violation of [] the Florida Building Code” to assert a cause of action “against the person or party who committed the violation.”

645. Prime performed work on and materially participated in the painting of buildings in the Ole Community.
646. In so doing, Prime violated Florida Building Code provisions related to painting and associated waterproofing.
647. Stock has been damaged as a result of the defective and non-code-compliant work.
648. The defective work has caused damage including rip and tear, water damage, and damage to other property.
649. The defective work has caused damage to other property, including, but not limited to, the interior, trim, other building materials, work of other trades, and personal property with buildings in the Ole Community.
650. Prime's defective workmanship was a substantial factor in the damage to buildings within the Ole Community, which, under Florida law, renders Prime liable for all of Stock's damages associated with Prime's actions.
651. Prime is liable directly to Stock for the damages caused by and resulting from the building code violations.
652. Stock seeks recovery from Prime for all damages incurred by Stock in connection with Prime's building code violations, including without limitation the following:
- A. Investigative repair and remediation costs;
  - B. Attorneys' fees and costs incurred in defending and prosecuting claims regarding this matter;
  - C. Any potential settlement payments and other compensation paid to claimants;
  - D. Settlement payments made;
  - E. Litigation and consulting expert fees; and

F. Overhead and warranty costs other than expenses incurred as a result of this Defendant not honoring its indemnification obligation.

653. Stock has satisfied all conditions precedent to maintaining this action or all such conditions precedent have been waived.

**WHEREFORE**, Plaintiffs, Stock Development, LLC, and Stock Construction, LLC, respectfully request this Court to enter a judgment against Defendant, Prime Drywall & Painting, Inc., awarding Plaintiffs their damages, prejudgment interest, attorneys' fees and costs incurred in this matter, and awarding Plaintiffs any further relief the Court deems just and appropriate.

**COUNT XL – BREACH OF WARRANTY**  
**(Prime)**

654. Stock Construction, LLC, sues Prime for breach of warranty.

655. Stock Construction, LLC, reasserts the allegations contained in paragraphs 1 through 37 above as though fully set forth herein.

656. Stock Construction, LLC, entered into a Subcontractor Base Agreement with Prime to perform work, including the exterior and interior painting of buildings in the Ole Community.

657. A true and correct copy of the Subcontractor Base Agreement with Prime is attached hereto as **Exhibit 9**.

658. The Association has made allegations related to defective work, including that related to the painting of buildings in the Ole Community.

659. Stock Construction, LLC, has provided notice to Prime breaching its warranty obligations for the work performed by Prime in the Ole Community.

660. Stock Construction, LLC, has been damaged by Prime's breach of warranty.

661. Stock Construction, LLC, has been damaged as a result of the defective work.
662. The defective work has caused damage including rip and tear, water damage, and damage to other property.
663. The defective work has caused damage to other property, including, but not limited to, the interior, trim, other building materials, work of other trades, and personal property with buildings in the Ole Community.
664. Stock Construction, LLC, seeks recovery from Prime for all of Stock Construction, LLC's, damages, including without limitation:
- A. Investigative repair and remediation costs;
  - B. Attorneys' fees and costs incurred in defending and prosecuting claims regarding this matter;
  - C. Any potential settlement payments and other compensation paid to claimants;
  - D. Settlement payments made;
  - E. Litigation and consulting expert fees; and
  - F. Overhead and warranty costs other than expenses incurred as a result of this Defendant not honoring its indemnification obligation.
665. Stock has satisfied all conditions precedent to maintaining this action or all such conditions precedent have been waived.

**WHEREFORE**, Plaintiff, Stock Construction, LLC, respectfully request this Court to enter a judgment against Defendant, Prime Drywall & Painting, Inc., awarding Stock Construction, LLC, its damages, prejudgment interest, attorneys' fees and costs incurred in this matter, and awarding Stock Construction, LLC, any further relief the Court deems just and appropriate.

**COUNT XLI – BREACH OF CONTRACT**  
**(Pro-Frame)**

- 666. Stock Construction, LLC, sues Pro-Frame for breach of contract.
- 667. Stock Construction, LLC, reasserts the allegations contained in paragraphs 1 through 37 above as though fully set forth herein.
- 668. Stock Construction, LLC, entered into a Subcontractor Base Agreement with Pro-Frame to perform work, including work on the shells of buildings in the Ole Community.
- 669. A true and correct copy of the Subcontractor Base Agreement with Pro-Frame is attached hereto as **Exhibit 10.**
- 670. The Association has made allegations related to defective work, including that related to the shells and elevated decks of buildings in the Ole Community.
- 671. Pro-Frame performed significant and substantial work related to the shells of buildings in the Ole Community.
- 672. Pro-Frame had a duty to perform its work in a workmanlike manner and in accordance with its contract.
- 673. Pro-Frame breached its contract by performing work which contained defects and was not of workmanlike quality.
- 674. Shells of buildings in the Ole Community contained workmanship defects.
- 675. The defective work has caused damage including rip and tear, water damage, and damage to other property.

676. The defective work has caused damage to other property, including, but not limited to, the interior, trim, other building materials, work of other trades, and personal property with buildings in the Ole Community.
677. Stock Construction, LLC, has been damaged as a result of the defective work.
678. Stock Construction, LLC, has suffered damage as a result of Pro-Frame's breach, including, but not limited to, the following:
- A. Investigative repair and remediation costs;
  - B. Attorneys' fees and costs incurred in defending and prosecuting claims regarding this matter;
  - C. Any potential settlement payments and other compensation paid to claimants;
  - D. Settlement payments made;
  - E. Litigation and consulting expert fees; and
  - F. Overhead and warranty costs other than expenses incurred as a result of this Defendant not honoring its indemnification obligation.
679. Pro-Frame's defective workmanship was a substantial factor in the damage to the buildings in the Ole Community, which, under Florida law, renders Pro-Frame liable for all of Stock's damages associated with Pro-Frame's work.
680. Stock Construction, LLC, has been damaged by Pro-Frame's breach.
681. The damages include, without limitation, remediation damages, overpayment, *et cetera*.
682. Stock Construction, LLC, has retained the law firm of Coleman, Yovanovich & Koester, P.A., to represent it in this matter, has incurred reasonable attorneys' fees



and costs in prosecuting this matter, and is entitled to the recovery of the same from Pro-Frame.

683. Stock Construction, LLC, has satisfied all conditions precedent to maintaining this action, or all such conditions precedent have been waived.

**WHEREFORE**, Plaintiff, Stock Construction, LLC, respectfully request this Court to enter a judgment against Defendant, Pro-Frame Contracting, Inc., awarding Stock Construction, LLC, its damages, prejudgment interest, attorneys' fees, and costs incurred in this matter, and awarding Stock Construction, LLC, any further relief the Court deems just and appropriate.

**COUNT XLII – CONTRACTUAL INDEMNIFICATION**  
**(Pro-Frame)**

684. Stock Construction, LLC, sues Pro-Frame for contractual indemnification based on claims, losses, damages, and expenses arising out of or resulting from Pro-Frame's work.
685. Stock Construction, LLC, reasserts the allegations contained in paragraphs 1 through 37 above as though fully set forth herein.
686. Stock Construction, LLC, entered into a Subcontractor Base Agreement with Pro-Frame to perform work, including work on the shells of buildings in the Ole Community.
687. A true and correct copy of the Subcontractor Base Agreement with Pro-Frame is attached hereto as **Exhibit 10**.
688. The Association has made allegations related to defective work, including that related to the shells and elevated decks of buildings in the Ole Community.

689. The defective work has caused damage including rip and tear, water damage, and damage to other property.
690. The defective work has caused damage to other property, including, but not limited to, the interior, trim, other building materials, work of other trades, and personal property with buildings in the Ole Community.
691. Stock Construction, LLC, has been damaged as a result of the defective work.
692. Pro-Frame entered into the Subcontractor Base Agreement with Stock Construction, LLC, and through the Subcontract, specifically provided contractual indemnity to Stock Construction, LLC, and the Owner.
693. Despite demand, notice and opportunity to indemnify Stock Construction, LLC, Pro-Frame has failed to do so.
694. Pursuant to Pro-Frame's Subcontract, Pro-Frame is obligated to pay Stock Construction, LLC's, attorneys' fees and costs.
695. Stock Construction, LLC, has suffered damage as a result of Pro-Frame's failure to indemnify Stock Construction, LLC, including but not limited to the following:
- A. Investigative repair and remediation costs;
  - B. Attorneys' fees and costs incurred in defending and prosecuting claims regarding this matter;
  - C. Any potential settlement payments and other compensation paid to claimants;
  - D. Settlement payments made;
  - E. Litigation and consulting expert fees; and
  - F. Overhead and warranty costs other than expenses incurred as a result of this Defendant not honoring its indemnification obligation.

696. Pro-Frame has a specific contractual obligation to repair and remediate, compensate Stock Construction, LLC, and then seek recovery through subrogation against otherwise responsible parties.
697. Pro-Frame, by failing to take affirmative action to assist, indemnify, and hold Stock Construction, LLC, harmless, has caused and exacerbated damages suffered by Stock Construction, LLC.
698. In the event Stock Construction, LLC, obtains a judgment against any responsible party for claims, losses, damages, and expenses arising out of or resulting from Pro-Frame's work, and such judgment is uncollectable, the amount of such uncollected judgment attributable to Pro-Frame's work must be paid by Pro-Frame, as the need for the litigation in obtaining the judgment was proximately caused by Pro-Frame's failure to indemnify and hold harmless Stock Construction, LLC.
699. Stock Construction, LLC, is entitled to all its attorneys' fees and costs and interest on its attorneys' fees and costs incurred in litigating or dealing with claims with other subcontractors, product suppliers, vendors, the engineer, the Association, and any other necessary and proper defendants.
700. Stock Construction, LLC, has retained the law firm of Coleman, Yovanovich & Koester, P.A., to represent it in this matter, has incurred reasonable attorneys' fees and costs in prosecuting this matter, and is entitled to the recovery of the same from Pro-Frame.
701. Stock Construction, LLC, has satisfied all conditions precedent to maintaining this action, or all such conditions precedent have been waived.

**WHEREFORE**, Plaintiff, Stock Construction, LLC, respectfully request this Court to enter a judgment against Defendant, Pro-Frame Contracting, Inc., awarding Stock Construction, LLC, its damages, prejudgment interest, attorneys' fees, and costs incurred in this matter, and awarding Stock Construction, LLC, any further relief the Court deems just and appropriate.

**COUNT XLIII – BUILDING CODE VIOLATIONS**  
**(Pro-Frame)**

- 702. Stock sues Pro-Frame for building code violations.
- 703. Stock reasserts the allegations contained in paragraphs 1 through 37 above as though fully set forth herein.
- 704. Stock Construction, LLC, entered into a Subcontractor Base Agreement with Pro-Frame to perform work, including work on the shells of buildings in the Ole Community.
- 705. A true and correct copy of the Subcontractor Base Agreement with Pro-Frame is attached hereto as **Exhibit 10**.
- 706. The Association has made allegations related to defective work, including that related to the shells and elevated decks of buildings in the Ole Community.
- 707. Section 553.84, Florida Statutes, empowers “any person or party” who has been “damaged as a result of a violation of [] the Florida Building Code” to assert a cause of action “against the person or party who committed the violation.”
- 708. Pro-Frame performed work on and materially participated in the shells of buildings in the Ole Community.
- 709. In so doing, Pro-Frame violated Florida Building Code provisions related to the shells and associated waterproofing.

710. Stock has been damaged as a result of the defective and non-code-compliant work.
711. The defective work has caused damage including rip and tear, water damage, and damage to other property.
712. The defective work has caused damage to other property, including, but not limited to, the interior, trim, other building materials, work of other trades, and personal property with buildings in the Ole Community.
713. Pro-Frame's defective workmanship was a substantial factor in the damage to buildings within the Ole Community, which, under Florida law, renders Pro-Frame liable for all of Stock's damages associated with Pro-Frame's actions.
714. Pro-Frame is liable directly to Stock for the damages caused by and resulting from the building code violations.
715. Stock seeks recovery from Pro-Frame for all damages incurred by Stock in connection with Pro-Frame's building code violations, including without limitation the following:
- A. Investigative repair and remediation costs;
  - B. Attorneys' fees and costs incurred in defending and prosecuting claims regarding this matter;
  - C. Any potential settlement payments and other compensation paid to claimants;
  - D. Settlement payments made;
  - E. Litigation and consulting expert fees; and
  - F. Overhead and warranty costs other than expenses incurred as a result of this Defendant not honoring its indemnification obligation.

716. Stock has satisfied all conditions precedent to maintaining this action or all such conditions precedent have been waived.

**WHEREFORE**, Plaintiffs, Stock Development, LLC, and Stock Construction, LLC, respectfully request this Court to enter a judgment against Defendant, Pro-Frame Contracting, Inc., awarding Plaintiffs their damages, prejudgment interest, attorneys' fees and costs incurred in this matter, and awarding Plaintiffs any further relief the Court deems just and appropriate.

**COUNT XLIV – BREACH OF WARRANTY**  
**(Pro-Frame)**

717. Stock Construction, LLC, sues Pro-Frame for breach of warranty.

718. Stock Construction, LLC, reasserts the allegations contained in paragraphs 1 through 37 above as though fully set forth herein.

719. Stock Construction, LLC, entered into a Subcontractor Base Agreement with Pro-Frame to perform work, including work on the shells of buildings in the Ole Community.

720. A true and correct copy of the Subcontractor Base Agreement with Pro-Frame is attached hereto as **Exhibit 10**.

721. The Association has made allegations related to defective work, including that related to the shells and elevated decks of buildings in the Ole Community.

722. Stock Construction, LLC, has provided notice to Pro-Frame breaching its warranty obligations for the work performed by Pro-Frame in the Ole Community.

723. Stock Construction, LLC, has been damaged by Pro-Frame's breach of warranty.

724. Stock Construction, LLC, has been damaged as a result of the defective work.

725. The defective work has caused damage including rip and tear, water damage, and damage to other property.
726. The defective work has caused damage to other property, including, but not limited to, the interior, trim, other building materials, work of other trades, and personal property with buildings in the Ole Community.
727. Stock Construction, LLC, seeks recovery from Pro-Frame for all of Stock Construction, LLC's, damages, including without limitation:
- A. Investigative repair and remediation costs;
  - B. Attorneys' fees and costs incurred in defending and prosecuting claims regarding this matter;
  - C. Any potential settlement payments and other compensation paid to claimants;
  - D. Settlement payments made;
  - E. Litigation and consulting expert fees; and
  - F. Overhead and warranty costs other than expenses incurred as a result of this Defendant not honoring its indemnification obligation.
728. Stock has satisfied all conditions precedent to maintaining this action or all such conditions precedent have been waived.

**WHEREFORE**, Plaintiff, Stock Construction, LLC, respectfully request this Court to enter a judgment against Defendant, Pro-Frame Contracting, Inc., awarding Stock Construction, LLC, its damages, prejudgment interest, attorneys' fees and costs incurred in this matter, and awarding Stock Construction, LLC, any further relief the Court deems just and appropriate.

**COUNT XLV – NEGLIGENCE**  
**(RDL)**

- 729. Stock sues RDL for professional negligence.
- 730. Stock realleges paragraphs 1 through 37 above as though fully set forth herein.
- 731. RDL was the architectural firm retained by Stock to plan and design buildings in the Ole Community.
- 732. The Association has made allegations related to defective design of elevated decks and other design issues.
- 733. The Association has also made claims related to flashing and designs for which RDL's work fell below the appropriate standard of care.
- 734. RDL performed significant and substantial work related to the design of buildings and certain elevated decks in the Ole Community
- 735. RDL had a duty to perform its work in a workmanlike manner, of workmanlike quality, and free of defects.
- 736. RDL breached that duty by performing work which contained defects and was not of workmanlike quality.
- 737. RDL's work and design related to the Ole Community fell below the appropriate standard of care.
- 738. Stock has been damaged as a result of RDL's breach of its duty to Stock.
- 739. Stock has been damaged as a result of the defective work.
- 740. The defective work has caused damage including rip and tear, water damage, and damage to other property.



741. The defective work has caused damage to other property, including, but not limited to, the interior, trim, other building materials, work of other trades, and personal property with buildings in the Ole Community.
742. The defective work performed by RDL is the cause in fact of Stock's damages.
743. The defective work performed by RDL is the proximate cause of Stock's damages.
744. Stock Construction, LLC, has suffered damage as a result of RDL's negligence, including, but not limited to, the following:
- A. Investigative repair and remediation costs;
  - B. Attorneys' fees and costs incurred in defending and prosecuting claims regarding this matter;
  - C. Any potential settlement payments and other compensation paid to claimants;
  - D. Settlement payments made;
  - E. Litigation and consulting expert fees; and
  - F. Overhead and warranty costs other than expenses incurred as a result of this Defendant not honoring its indemnification obligation.
745. Plaintiffs, Stock Development, LLC, and Stock Construction, LLC, have satisfied all conditions precedent to maintaining this action, or all such conditions precedent have been waived.

**WHEREFORE**, Plaintiffs, Stock Development, LLC, and Stock Construction, LLC, respectfully request this Court to enter a judgment against Defendant, RDL Architects, Inc., awarding Plaintiffs their damages, prejudgment interest, attorneys' fees and costs incurred in this matter, and awarding Plaintiffs any further relief the Court deems just and appropriate.

**COUNT XLVI – COMMON LAW INDEMNITY**  
**(RDL)**

- 746. Stock sues Defendant RDL for Common Law Indemnity.
- 747. Stock realleges paragraphs 1 through 37 above as though fully set forth herein.
- 748. RDL was the architectural firm retained by Stock to plan and design buildings in the Ole Community.
- 749. The Association has made allegations related to defective design of elevated decks and other design issues.
- 750. The Association has also made claims related to stucco flashing and designs for which RDL's work fell below the appropriate standard of care.
- 751. RDL's work and design related to the Ole Community fell below the appropriate standard of care.
- 752. Stock has been damaged as a result of RDL's breach of its duty to Stock.
- 753. Stock has been damaged as a result of the defective work.
- 754. The defective work has caused damage including rip and tear, water damage, and damage to other property.
- 755. The defective work has caused damage to other property, including, but not limited to, the interior, trim, other building materials, work of other trades, and personal property with buildings in the Ole Community.
- 756. Stock, through no fault of its own and solely as a result of the professional negligence of RDL, has suffered losses and will continue to suffer losses as a direct result of RDL's professional malpractice in connection with certain elevated decks in the Ole Community.

757. Stock has suffered damages (including, but not limited to, attorneys' fees and costs spent defending allegations and claims from the Association, for which Stock specifically seeks recovery from RDL) as a result of RDL's professional negligence.
758. Stock has suffered damage as a result of RDL's breach, including, but not limited to, the following:
- A. Investigative repair and remediation costs;
  - B. Attorneys' fees and costs incurred in defending and prosecuting claims regarding this matter;
  - C. Any potential settlement payments and other compensation paid to claimants;
  - D. Litigation and consulting expert fees; and
  - E. Overhead and warranty costs other than expenses incurred as a result of this Defendant not honoring its indemnification obligation.
759. Plaintiffs, Stock Development, LLC, and Stock Construction, LLC, have satisfied all conditions precedent to maintaining this action, or all such conditions precedent have been waived.

**WHEREFORE**, Plaintiffs, Stock Development, LLC, and Stock Construction, LLC, respectfully request this Court to enter a judgment against Defendant, RDL Architects, Inc., awarding Plaintiffs their damages, prejudgment interest, attorneys' fees and costs incurred in this matter, and awarding Plaintiffs any further relief the Court deems just and appropriate.

**COUNT XLVII – BREACH OF CONTRACT**  
**(Siltech)**

760. Stock Construction, LLC, sues Siltech for breach of contract.

761. Stock Construction, LLC, reasserts the allegations contained in paragraphs 1 through 37 above as though fully set forth herein.
762. Stock Construction, LLC, entered into a Subcontractor Base Agreement with Siltech to perform work, including the installation and supply of windowsills for buildings in the Ole Community.
763. A true and correct copy of the Subcontractor Base Agreement with Siltech is attached hereto as **Exhibit 11.**
764. The Association has made allegations related to defective work, including that related to windowsills of buildings in the Ole Community.
765. Siltech performed significant and substantial work related to the supply and installation of windowsills of buildings in the Ole Community.
766. Siltech had a duty to perform its work in a workmanlike manner and in accordance with its contract.
767. Siltech breached its contract by performing work which contained defects and was not of workmanlike quality.
768. Windowsills in the Ole Community contained workmanship defects.
769. The defective work has caused damage including rip and tear, water damage, and damage to other property.
770. The defective work has caused damage to other property, including, but not limited to, the interior, trim, other building materials, work of other trades, and personal property with buildings in the Ole Community.
771. Stock Construction, LLC, has been damaged as a result of the defective work.

772. Stock Construction, LLC, has suffered damage as a result of Siltech's breach, including, but not limited to, the following:
- A. Investigative repair and remediation costs;
  - B. Attorneys' fees and costs incurred in defending and prosecuting claims regarding this matter;
  - C. Any potential settlement payments and other compensation paid to claimants;
  - D. Settlement payments made;
  - E. Litigation and consulting expert fees; and
  - F. Overhead and warranty costs other than expenses incurred as a result of this Defendant not honoring its indemnification obligation.
773. Siltech's defective workmanship was a substantial factor in the damage to the buildings in the Ole Community, which, under Florida law, renders Siltech liable for all of Stock's damages associated with Siltech's work.
774. Stock Construction, LLC, has been damaged by Siltech's breach.
775. The damages include, without limitation, remediation damages, overpayment, *et cetera*.
776. Stock Construction, LLC, has retained the law firm of Coleman, Yovanovich & Koester, P.A., to represent it in this matter, has incurred reasonable attorneys' fees and costs in prosecuting this matter, and is entitled to the recovery of the same from Siltech.
777. Stock Construction, LLC, has satisfied all conditions precedent to maintaining this action, or all such conditions precedent have been waived.

**WHEREFORE**, Plaintiff, Stock Construction, LLC, respectfully request this Court to enter a judgment against Defendants, Siltech, Inc., and Siltech Manufacturing, Inc., awarding Stock Construction, LLC, its damages, prejudgment interest, attorneys' fees, and costs incurred in this matter, and awarding Stock Construction, LLC, any further relief the Court deems just and appropriate.

**COUNT XLVIII – CONTRACTUAL INDEMNIFICATION**  
**(Siltech)**

- 778. Stock Construction, LLC, sues Siltech for contractual indemnification based on claims, losses, damages, and expenses arising out of or resulting from Siltech's work.
- 779. Stock Construction, LLC, reasserts the allegations contained in paragraphs 1 through 37 above as though fully set forth herein.
- 780. Stock Construction, LLC, entered into a Subcontractor Base Agreement with Siltech to perform work, including the installation and supply of windowsills for buildings in the Ole Community.
- 781. A true and correct copy of the Subcontractor Base Agreement with Siltech is attached hereto as **Exhibit 11**.
- 782. The Association has made allegations related to defective work, including that related to windowsills of buildings in the Ole Community.
- 783. The defective work has caused damage including rip and tear, water damage, and damage to other property.
- 784. The defective work has caused damage to other property, including, but not limited to, the interior, trim, other building materials, work of other trades, and personal property with buildings in the Ole Community.

785. Stock Construction, LLC, has been damaged as a result of the defective work.
786. Siltech entered into the Subcontractor Base Agreement with Stock Construction, LLC, and through the Subcontract, specifically provided contractual indemnity to Stock Construction, LLC, and the Owner.
787. Despite demand, notice and opportunity to indemnify Stock Construction, LLC, Siltech has failed to do so.
788. Pursuant to Siltech's Subcontract, Siltech is obligated to pay Stock Construction, LLC's, attorneys' fees and costs.
789. Stock Construction, LLC, has suffered damage as a result of Siltech's failure to indemnify Stock Construction, LLC, including but not limited to the following:
- A. Investigative repair and remediation costs;
  - B. Attorneys' fees and costs incurred in defending and prosecuting claims regarding this matter;
  - C. Any potential settlement payments and other compensation paid to claimants;
  - D. Settlement payments made;
  - E. Litigation and consulting expert fees; and
  - F. Overhead and warranty costs other than expenses incurred as a result of this Defendant not honoring its indemnification obligation.
790. Siltech has a specific contractual obligation to repair and remediate, compensate Stock Construction, LLC, and then seek recovery through subrogation against otherwise responsible parties.

791. Siltech, by failing to take affirmative action to assist, indemnify, and hold Stock Construction, LLC, harmless, has caused and exacerbated damages suffered by Stock Construction, LLC.
792. In the event Stock Construction, LLC, obtains a judgment against any responsible party for claims, losses, damages, and expenses arising out of or resulting from Siltech's work, and such judgment is uncollectable, the amount of such uncollected judgment attributable to Siltech's work must be paid by Siltech, as the need for the litigation in obtaining the judgment was proximately caused by Siltech's failure to indemnify and hold harmless Stock Construction, LLC.
793. Stock Construction, LLC, is entitled to all its attorneys' fees and costs and interest on its attorneys' fees and costs incurred in litigating or dealing with claims with other subcontractors, product suppliers, vendors, the engineer, the Association, and any other necessary and proper defendants.
794. Stock Construction, LLC, has retained the law firm of Coleman, Yovanovich & Koester, P.A., to represent it in this matter, has incurred reasonable attorneys' fees and costs in prosecuting this matter, and is entitled to the recovery of the same from Siltech.
795. Stock Construction, LLC, has satisfied all conditions precedent to maintaining this action, or all such conditions precedent have been waived.

**WHEREFORE**, Plaintiff, Stock Construction, LLC, respectfully request this Court to enter a judgment against Defendants, Siltech, Inc., and Siltech Manufacturing, Inc., awarding Stock Construction, LLC, its damages, prejudgment interest, attorneys' fees, and costs incurred



in this matter, and awarding Stock Construction, LLC, any further relief the Court deems just and appropriate.

**COUNT XLIX – BUILDING CODE VIOLATIONS**  
**(Siltech)**

- 796. Stock sues Siltech for building code violations.
- 797. Stock reasserts the allegations contained in paragraphs 1 through 37 above as though fully set forth herein.
- 798. Stock Construction, LLC, entered into a Subcontractor Base Agreement with Siltech to perform work, including the installation and supply of windowsills for buildings in the Ole Community.
- 799. A true and correct copy of the Subcontractor Base Agreement with Siltech is attached hereto as **Exhibit 11**.
- 800. The Association has made allegations related to defective work, including that related to windowsills of buildings in the Ole Community.
- 801. Section 553.84, Florida Statutes, empowers “any person or party” who has been “damaged as a result of a violation of [] the Florida Building Code” to assert a cause of action “against the person or party who committed the violation.”
- 802. Siltech performed work on and materially participated in the supply and installation of windowsills of buildings in the Ole Community.
- 803. In so doing, Siltech violated Florida Building Code provisions related to the windowsills and associated waterproofing.
- 804. Stock has been damaged as a result of the defective and non-code-compliant work.

805. The defective work has caused damage including rip and tear, water damage, and damage to other property.
806. The defective work has caused damage to other property, including, but not limited to, the interior, trim, other building materials, work of other trades, and personal property with buildings in the Ole Community.
807. Siltech's defective workmanship was a substantial factor in the damage to buildings within the Ole Community, which, under Florida law, renders Siltech liable for all of Stock's damages associated with Siltech's actions.
808. Siltech is liable directly to Stock for the damages caused by and resulting from the building code violations.
809. Stock seeks recovery from Siltech for all damages incurred by Stock in connection with Siltech's building code violations, including without limitation the following:
- A. Investigative repair and remediation costs;
  - B. Attorneys' fees and costs incurred in defending and prosecuting claims regarding this matter;
  - C. Any potential settlement payments and other compensation paid to claimants;
  - D. Settlement payments made;
  - E. Litigation and consulting expert fees; and
  - F. Overhead and warranty costs other than expenses incurred as a result of this Defendant not honoring its indemnification obligation.
810. Stock has satisfied all conditions precedent to maintaining this action or all such conditions precedent have been waived.

**WHEREFORE**, Plaintiffs, Stock Development, LLC, and Stock Construction, LLC, respectfully request this Court to enter a judgment against Defendants, Siltech, Inc., and Siltech Manufacturing, Inc., awarding Plaintiffs their damages, prejudgment interest, attorneys' fees and costs incurred in this matter, and awarding Plaintiffs any further relief the Court deems just and appropriate.

**COUNT L – BREACH OF WARRANTY**  
**(Siltech)**

- 811. Stock Construction, LLC, sues Siltech for breach of warranty.
- 812. Stock Construction, LLC, reasserts the allegations contained in paragraphs 1 through 37 above as though fully set forth herein.
- 813. Stock Construction, LLC, entered into a Subcontractor Base Agreement with Siltech to perform work, including the installation and supply of windowsills for buildings in the Ole Community.
- 814. A true and correct copy of the Subcontractor Base Agreement with Siltech is attached hereto as **Exhibit 11**.
- 815. The Association has made allegations related to defective work, including that related to windowsills of buildings in the Ole Community.
- 816. Stock Construction, LLC, has provided notice to Siltech breaching its warranty obligations for the work performed by Siltech in the Ole Community.
- 817. Stock Construction, LLC, has been damaged by Siltech's breach of warranty.
- 818. Stock Construction, LLC, has been damaged as a result of the defective work.
- 819. The defective work has caused damage including rip and tear, water damage, and damage to other property.

820. The defective work has caused damage to other property, including, but not limited to, the interior, trim, other building materials, work of other trades, and personal property with buildings in the Ole Community.
821. Stock Construction, LLC, seeks recovery from Siltech for all of Stock Construction, LLC's, damages, including without limitation:
- A. Investigative repair and remediation costs;
  - B. Attorneys' fees and costs incurred in defending and prosecuting claims regarding this matter;
  - C. Any potential settlement payments and other compensation paid to claimants;
  - D. Settlement payments made;
  - E. Litigation and consulting expert fees; and
  - F. Overhead and warranty costs other than expenses incurred as a result of this Defendant not honoring its indemnification obligation.
822. Stock has satisfied all conditions precedent to maintaining this action or all such conditions precedent have been waived.

**WHEREFORE**, Plaintiff, Stock Construction, LLC, respectfully request this Court to enter a judgment against Defendants, Siltech, Inc., and Siltech Manufacturing, Inc., awarding Stock Construction, LLC, its damages, prejudgment interest, attorneys' fees and costs incurred in this matter, and awarding Stock Construction, LLC, any further relief the Court deems just and appropriate.

**COUNT LI – BREACH OF CONTRACT**  
**(Sutton)**

823. Stock Construction, LLC, sues Sutton for breach of contract.

824. Stock Construction, LLC, reasserts the allegations contained in paragraphs 1 through 37 above as though fully set forth herein.
825. Stock Construction, LLC, entered into a Subcontractor Base Agreement with Sutton to perform work, including the weather barriers of buildings in the Ole Community.
826. A true and correct copy of the Subcontractor Base Agreement with Sutton is attached hereto as **Exhibit 12.**
827. The Association has made allegations related to defective work, including that related to the weather barriers of buildings in the Ole Community.
828. Sutton performed significant and substantial work related to the weather barrier of buildings in the Ole Community.
829. Sutton had a duty to perform its work in a workmanlike manner and in accordance with its contract.
830. Sutton breached its contract by performing work which contained defects and was not of workmanlike quality.
831. Weather barriers of buildings in the Ole Community contained workmanship defects.
832. The defective work has caused damage including rip and tear, water damage, and damage to other property.
833. The defective work has caused damage to other property, including, but not limited to, the interior, trim, other building materials, work of other trades, and personal property with buildings in the Ole Community.
834. Stock Construction, LLC, has been damaged as a result of the defective work.
835. Stock Construction, LLC, has suffered damage as a result of Sutton's breach, including, but not limited to, the following:

- A. Investigative repair and remediation costs;
  - B. Attorneys' fees and costs incurred in defending and prosecuting claims regarding this matter;
  - C. Any potential settlement payments and other compensation paid to claimants;
  - D. Settlement payments made;
  - E. Litigation and consulting expert fees; and
  - F. Overhead and warranty costs other than expenses incurred as a result of this Defendant not honoring its indemnification obligation.
836. Sutton's defective workmanship was a substantial factor in the damage to the buildings in the Ole Community, which, under Florida law, renders Sutton liable for all of Stock's damages associated with Sutton's work.
837. Stock Construction, LLC, has been damaged by Sutton's breach.
838. The damages include, without limitation, remediation damages, overpayment, *et cetera*.
839. Stock Construction, LLC, has retained the law firm of Coleman, Yovanovich & Koester, P.A., to represent it in this matter, has incurred reasonable attorneys' fees and costs in prosecuting this matter, and is entitled to the recovery of the same from Sutton.
840. Stock Construction, LLC, has satisfied all conditions precedent to maintaining this action, or all such conditions precedent have been waived.

**WHEREFORE**, Plaintiff, Stock Construction, LLC, respectfully request this Court to enter a judgment against Defendant, Sutton Contracting Solutions, Inc., awarding Stock Construction, LLC, its damages, prejudgment interest, attorneys' fees, and costs incurred in this

matter, and awarding Stock Construction, LLC, any further relief the Court deems just and appropriate.

**COUNT LII – CONTRACTUAL INDEMNIFICATION**  
**(Sutton)**

841. Stock Construction, LLC, sues Sutton for contractual indemnification based on claims, losses, damages, and expenses arising out of or resulting from Sutton's work.
842. Stock Construction, LLC, reasserts the allegations contained in paragraphs 1 through 37 above as though fully set forth herein.
843. Stock Construction, LLC, entered into a Subcontractor Base Agreement with Sutton to perform work, including the weather barriers of buildings in the Ole Community.
844. A true and correct copy of the Subcontractor Base Agreement with Sutton is attached hereto as **Exhibit 12.**
845. The Association has made allegations related to defective work, including that related to the weather barriers of buildings in the Ole Community.
846. The defective work has caused damage including rip and tear, water damage, and damage to other property.
847. The defective work has caused damage to other property, including, but not limited to, the interior, trim, other building materials, work of other trades, and personal property with buildings in the Ole Community.
848. Stock Construction, LLC, has been damaged as a result of the defective work.
849. Sutton entered into the Subcontractor Base Agreement with Stock Construction, LLC, and through the Subcontract, specifically provided contractual indemnity to Stock Construction, LLC, and the Owner.

850. Despite demand, notice and opportunity to indemnify Stock Construction, LLC, Sutton has failed to do so.
851. Pursuant to Sutton's Subcontract, Sutton is obligated to pay Stock Construction, LLC's, attorneys' fees and costs.
852. Stock Construction, LLC, has suffered damage as a result of Sutton's failure to indemnify Stock Construction, LLC, including but not limited to the following:
- A. Investigative repair and remediation costs;
  - B. Attorneys' fees and costs incurred in defending and prosecuting claims regarding this matter;
  - C. Any potential settlement payments and other compensation paid to claimants;
  - D. Settlement payments made;
  - E. Litigation and consulting expert fees; and
  - F. Overhead and warranty costs other than expenses incurred as a result of this Defendant not honoring its indemnification obligation.
853. Sutton has a specific contractual obligation to repair and remediate, compensate Stock Construction, LLC, and then seek recovery through subrogation against otherwise responsible parties.
854. Sutton, by failing to take affirmative action to assist, indemnify, and hold Stock Construction, LLC, harmless, has caused and exacerbated damages suffered by Stock Construction, LLC.
855. In the event Stock Construction, LLC, obtains a judgment against any responsible party for claims, losses, damages, and expenses arising out of or resulting from Sutton's work, and such judgment is uncollectable, the amount of such uncollected



judgment attributable to Sutton's work must be paid by Sutton, as the need for the litigation in obtaining the judgment was proximately caused by Sutton's failure to indemnify and hold harmless Stock Construction, LLC.

856. Stock Construction, LLC, is entitled to all its attorneys' fees and costs and interest on its attorneys' fees and costs incurred in litigating or dealing with claims with other subcontractors, product suppliers, vendors, the engineer, the Association, and any other necessary and proper defendants.
857. Stock Construction, LLC, has retained the law firm of Coleman, Yovanovich & Koester, P.A., to represent it in this matter, has incurred reasonable attorneys' fees and costs in prosecuting this matter, and is entitled to the recovery of the same from Sutton.
858. Stock Construction, LLC, has satisfied all conditions precedent to maintaining this action, or all such conditions precedent have been waived.

**WHEREFORE**, Plaintiff, Stock Construction, LLC, respectfully requests this Court to enter a judgment against Defendant, Sutton Contracting Solutions, Inc., awarding Stock Construction, LLC, its damages, prejudgment interest, attorneys' fees, and costs incurred in this matter, and awarding Stock Construction, LLC, any further relief the Court deems just and appropriate.

**COUNT LIII – BUILDING CODE VIOLATIONS**  
**(Sutton)**

859. Stock sues Sutton for building code violations.
860. Stock reasserts the allegations contained in paragraphs 1 through 37 above as though fully set forth herein.

861. Stock Construction, LLC, entered into a Subcontractor Base Agreement with Sutton to perform work, including the weather barriers of buildings in the Ole Community.
862. A true and correct copy of the Subcontractor Base Agreement with Sutton is attached hereto as **Exhibit 12.**
863. The Association has made allegations related to defective work, including that related to the weather barriers of buildings in the Ole Community.
864. Section 553.84, Florida Statutes, empowers “any person or party” who has been “damaged as a result of a violation of [] the Florida Building Code” to assert a cause of action “against the person or party who committed the violation.”
865. Sutton performed work on and materially participated in the weather barriers of buildings in the Ole Community.
866. In so doing, Sutton violated Florida Building Code provisions related to weather barriers and the associated waterproofing.
867. Stock has been damaged as a result of the defective and non-code-compliant work.
868. The defective work has caused damage including rip and tear, water damage, and damage to other property.
869. The defective work has caused damage to other property, including, but not limited to, the interior, trim, other building materials, work of other trades, and personal property with buildings in the Ole Community.
870. Sutton’s defective workmanship was a substantial factor in the damage to buildings within the Ole Community, which, under Florida law, renders Sutton liable for all of Stock’s damages associated with Sutton’s actions.

871. Sutton is liable directly to Stock for the damages caused by and resulting from the building code violations.
872. Stock seeks recovery from Sutton for all damages incurred by Stock in connection with Sutton's building code violations, including without limitation the following:
- A. Investigative repair and remediation costs;
  - B. Attorneys' fees and costs incurred in defending and prosecuting claims regarding this matter;
  - C. Any potential settlement payments and other compensation paid to claimants;
  - D. Settlement payments made;
  - E. Litigation and consulting expert fees; and
  - F. Overhead and warranty costs other than expenses incurred as a result of this Defendant not honoring its indemnification obligation.
873. Stock has satisfied all conditions precedent to maintaining this action or all such conditions precedent have been waived.

**WHEREFORE**, Plaintiffs, Stock Development, LLC, and Stock Construction, LLC, respectfully request this Court to enter a judgment against Defendant, Sutton Contracting Solutions, Inc., awarding Plaintiffs their damages, prejudgment interest, attorneys' fees and costs incurred in this matter, and awarding Plaintiffs any further relief the Court deems just and appropriate.

**COUNT LIV – BREACH OF WARRANTY**  
**(Sutton)**

874. Stock Construction, LLC, sues Sutton for breach of warranty.

875. Stock Construction, LLC, reasserts the allegations contained in paragraphs 1 through 37 above as though fully set forth herein.
876. Stock Construction, LLC, entered into a Subcontractor Base Agreement with Sutton to perform work, including the weather barriers of buildings in the Ole Community.
877. A true and correct copy of the Subcontractor Base Agreement with Sutton is attached hereto as **Exhibit 12.**
878. The Association has made allegations related to defective work, including that related to the weather barriers of buildings in the Ole Community.
879. Stock Construction, LLC, has provided notice to Sutton breaching its warranty obligations for the work performed by Sutton in the Ole Community.
880. Stock Construction, LLC, has been damaged by Sutton's breach of warranty.
881. Stock Construction, LLC, has been damaged as a result of the defective work.
882. The defective work has caused damage including rip and tear, water damage, and damage to other property.
883. The defective work has caused damage to other property, including, but not limited to, the interior, trim, other building materials, work of other trades, and personal property with buildings in the Ole Community.
884. Stock Construction, LLC, seeks recovery from Sutton for all of Stock Construction, LLC's, damages, including without limitation:
- A. Investigative repair and remediation costs;
  - B. Attorneys' fees and costs incurred in defending and prosecuting claims regarding this matter;
  - C. Any potential settlement payments and other compensation paid to claimants;

- D. Settlement payments made;
- E. Litigation and consulting expert fees; and
- F. Overhead and warranty costs other than expenses incurred as a result of this Defendant not honoring its indemnification obligation.

885. Stock has satisfied all conditions precedent to maintaining this action or all such conditions precedent have been waived.

**WHEREFORE**, Plaintiff, Stock Construction, LLC, respectfully requests this Court to enter a judgment against Defendant, Sutton Contracting Solutions, Inc., awarding Stock Construction, LLC, its damages, prejudgment interest, attorneys' fees and costs incurred in this matter, and awarding Stock Construction, LLC, any further relief the Court deems just and appropriate.

**COUNT LV – BREACH OF CONTRACT**  
**(Franco)**

- 886. Stock Construction, LLC, sues Franco for breach of contract.
- 887. Stock Construction, LLC, reasserts the allegations contained in paragraphs 1 through 37 above as though fully set forth herein.
- 888. Stock Construction, LLC, entered into a Subcontractor Base Agreement with Franco to perform work, including the painting of buildings in the Ole Community.
- 889. A true and correct copy of the Subcontractor Base Agreement with Franco is attached hereto as **Exhibit 13**.
- 890. The Association has made allegations related to defective work, including that related to the painting of buildings in the Ole Community.

891. Franco performed significant and substantial work related to the painting of buildings in the Ole Community.
892. Franco had a duty to perform its work in a workmanlike manner and in accordance with its contract.
893. Franco breached its contract by performing work which contained defects and was not of workmanlike quality.
894. Painting in the Ole Community contained workmanship defects.
895. The defective work has caused damage including rip and tear, water damage, and damage to other property.
896. The defective work has caused damage to other property, including, but not limited to, the interior, trim, other building materials, work of other trades, and personal property with buildings in the Ole Community.
897. Stock Construction, LLC, has been damaged as a result of the defective work.
898. Stock Construction, LLC, has suffered damage as a result of Franco's breach, including, but not limited to, the following:
- A. Investigative repair and remediation costs;
  - B. Attorneys' fees and costs incurred in defending and prosecuting claims regarding this matter;
  - C. Any potential settlement payments and other compensation paid to claimants;
  - D. Settlement payments made;
  - E. Litigation and consulting expert fees; and
  - F. Overhead and warranty costs other than expenses incurred as a result of this Defendant not honoring its indemnification obligation.

899. Franco's defective work and installation were substantial factors in the damage to the buildings in the Ole Community, which, under Florida law, renders Franco liable for all of Stock's damages associated with Franco's work.
900. Stock Construction, LLC, has been damaged by Franco's breach.
901. The damages include, without limitation, remediation damages, overpayment, *et cetera*.
902. Stock Construction, LLC, has retained the law firm of Coleman, Yovanovich & Koester, P.A., to represent it in this matter, has incurred reasonable attorneys' fees and costs in prosecuting this matter, and is entitled to the recovery of the same from Franco.
903. Stock Construction, LLC, has satisfied all conditions precedent to maintaining this action, or all such conditions precedent have been waived.

**WHEREFORE**, Plaintiff, Stock Construction, LLC, respectfully requests this Court to enter a judgment against Defendant, SW USA Franco, LLC, awarding Stock Construction, LLC, its damages, prejudgment interest, attorneys' fees, and costs incurred in this matter, and awarding Stock Construction, LLC, any further relief the Court deems just and appropriate.

**COUNT LVI – CONTRACTUAL INDEMNIFICATION**  
**(Franco)**

904. Stock Construction, LLC, sues Franco for contractual indemnification based on claims, losses, damages, and expenses arising out of or resulting from Franco's work.
905. Stock Construction, LLC, reasserts the allegations contained in paragraphs 1 through 37 above as though fully set forth herein.
906. Stock Construction, LLC, entered into a Subcontractor Base Agreement with Franco

- to perform work, including the painting of buildings in the Ole Community.
907. A true and correct copy of the Subcontractor Base Agreement with Franco is attached hereto as **Exhibit 13.**
908. The Association has made allegations related to defective work, including that related to the painting of buildings in the Ole Community.
909. The defective work has caused damage including rip and tear, water damage, and damage to other property.
910. The defective work has caused damage to other property, including, but not limited to, the interior, trim, other building materials, work of other trades, and personal property with buildings in the Ole Community.
911. Stock Construction, LLC, has been damaged as a result of the defective work.
912. Franco entered into the Subcontractor Base Agreement with Stock Construction, LLC, and through the Subcontract, specifically provided contractual indemnity to Stock Construction, LLC, and the Owner.
913. Despite demand, notice and opportunity to indemnify Stock Construction, LLC, Franco has failed to do so.
914. Pursuant to Franco's Subcontract, Franco is obligated to pay Stock Construction, LLC's, attorneys' fees and costs.
915. Stock Construction, LLC, has suffered damage as a result of Franco's failure to indemnify Stock Construction, LLC, including but not limited to the following:
- A. Investigative repair and remediation costs;
  - B. Attorneys' fees and costs incurred in defending and prosecuting claims regarding this matter;



- C. Any potential settlement payments and other compensation paid to claimants;
- D. Settlement payments made;
- E. Litigation and consulting expert fees; and
- F. Overhead and warranty costs other than expenses incurred as a result of this Defendant not honoring its indemnification obligation.

- 916. Franco has a specific contractual obligation to repair and remediate, compensate Stock Construction, LLC, and then seek recovery through subrogation against otherwise responsible parties.
- 917. Franco, by failing to take affirmative action to assist, indemnify, and hold Stock Construction, LLC, harmless, has caused and exacerbated damages suffered by Stock Construction, LLC.
- 918. In the event Stock Construction, LLC, obtains a judgment against any responsible party for claims, losses, damages, and expenses arising out of or resulting from Franco's work, and such judgment is uncollectable, the amount of such uncollected judgment attributable to Franco's work must be paid by Franco, as the need for the litigation in obtaining the judgment was proximately caused by Franco's failure to indemnify and hold harmless Stock Construction, LLC.
- 919. Stock Construction, LLC, is entitled to all its attorneys' fees and costs and interest on its attorneys' fees and costs incurred in litigating or dealing with claims with other subcontractors, product suppliers, vendors, the engineer, the Association, and any other necessary and proper defendants.
- 920. Stock Construction, LLC, has retained the law firm of Coleman, Yovanovich & Koester, P.A., to represent it in this matter, has incurred reasonable attorneys' fees

and costs in prosecuting this matter, and is entitled to the recovery of the same from Franco.

921. Stock Construction, LLC, has satisfied all conditions precedent to maintaining this action, or all such conditions precedent have been waived.

**WHEREFORE**, Plaintiff, Stock Construction, LLC, respectfully request this Court to enter a judgment against Defendant, SW USA Franco, LLC, awarding Stock Construction, LLC, its damages, prejudgment interest, attorneys' fees, and costs incurred in this matter, and awarding Stock Construction, LLC, any further relief the Court deems just and appropriate.

**COUNT LVII – BUILDING CODE VIOLATIONS**  
**(Franco)**

922. Stock sues Franco for building code violations.
923. Stock reasserts the allegations contained in paragraphs 1 through 37 above as though fully set forth herein.
924. Stock Construction, LLC, entered into a Subcontractor Base Agreement with Franco to perform work, including the painting of buildings in the Ole Community.
925. A true and correct copy of the Subcontractor Base Agreement with Franco is attached hereto as **Exhibit 13**.
926. The Association has made allegations related to defective work, including that related to the painting of buildings in the Ole Community.
927. Section 553.84, Florida Statutes, empowers “any person or party” who has been “damaged as a result of a violation of [] the Florida Building Code” to assert a cause of action “against the person or party who committed the violation.”

928. Franco performed work on and materially participated in the painting of buildings in the Ole Community.
929. In so doing, Franco violated Florida Building Code provisions related to painting and associated waterproofing.
930. Stock has been damaged as a result of the defective and non-code-compliant work.
931. The defective work has caused damage including rip and tear, water damage, and damage to other property.
932. The defective work has caused damage to other property, including, but not limited to, the interior, trim, other building materials, work of other trades, and personal property with buildings in the Ole Community.
933. Franco's defective workmanship was a substantial factor in the damage to buildings within the Ole Community, which, under Florida law, renders Franco liable for all of Stock's damages associated with Franco's actions.
934. Franco is liable directly to Stock for the damages caused by and resulting from the building code violations.
935. Stock seeks recovery from Franco for all damages incurred by Stock in connection with Franco's building code violations, including without limitation the following:
- A. Investigative repair and remediation costs;
  - B. Attorneys' fees and costs incurred in defending and prosecuting claims regarding this matter;
  - C. Any potential settlement payments and other compensation paid to claimants;
  - D. Settlement payments made;
  - E. Litigation and consulting expert fees; and

F. Overhead and warranty costs other than expenses incurred as a result of this Defendant not honoring its indemnification obligation.

936. Stock has satisfied all conditions precedent to maintaining this action or all such conditions precedent have been waived.

**WHEREFORE**, Plaintiff, Stock Construction, LLC, respectfully request this Court to enter a judgment against Defendant, SW USA Franco, LLC, awarding Plaintiffs their damages, prejudgment interest, attorneys' fees and costs incurred in this matter, and awarding Plaintiffs any further relief the Court deems just and appropriate.

**COUNT LVIII – BREACH OF WARRANTY**  
**(Franco)**

937. Stock Construction, LLC, sues Franco for breach of warranty.

938. Stock Construction, LLC, reasserts the allegations contained in paragraphs 1 through 37 above as though fully set forth herein.

939. Stock Construction, LLC, entered into a Subcontractor Base Agreement with Franco to perform work, including the painting of buildings in the Ole Community.

940. A true and correct copy of the Subcontractor Base Agreement with Franco is attached hereto as **Exhibit 13**.

941. The Association has made allegations related to defective work, including that related to the painting of buildings in the Ole Community.

942. Stock Construction, LLC, has provided notice to Franco breaching its warranty obligations for the work performed by Franco in the Ole Community.

943. Stock Construction, LLC, has been damaged by Franco's breach of warranty.

944. Stock Construction, LLC, has been damaged as a result of the defective work.

945. The defective work has caused damage including rip and tear, water damage, and damage to other property.
946. The defective work has caused damage to other property, including, but not limited to, the interior, trim, other building materials, work of other trades, and personal property with buildings in the Ole Community.
947. Stock Construction, LLC, seeks recovery from Franco for all of Stock Construction, LLC's, damages, including without limitation:
- A. Investigative repair and remediation costs;
  - B. Attorneys' fees and costs incurred in defending and prosecuting claims regarding this matter;
  - C. Any potential settlement payments and other compensation paid to claimants;
  - D. Settlement payments made;
  - E. Litigation and consulting expert fees; and
  - F. Overhead and warranty costs other than expenses incurred as a result of this Defendant not honoring its indemnification obligation.
948. Stock has satisfied all conditions precedent to maintaining this action or all such conditions precedent have been waived.

**WHEREFORE**, Plaintiff, Stock Construction, LLC, respectfully request this Court to enter a judgment against Defendant, SW USA Franco, LLC, awarding Stock Construction, LLC, its damages, prejudgment interest, attorneys' fees and costs incurred in this matter, and awarding Stock Construction, LLC, any further relief the Court deems just and appropriate.

**COUNT LIX – BREACH OF CONTRACT**  
**(West Coast)**

- 949. Stock Construction, LLC, sues West Coast for breach of contract.
- 950. Stock Construction, LLC, reasserts the allegations contained in paragraphs 1 through 37 above as though fully set forth herein.
- 951. Stock Construction, LLC, entered into a Subcontractor Base Agreement with West Coast to perform work, including the insulation, closet shelving, mirrors, and shower enclosures, for buildings in the Ole Community.
- 952. A true and correct copy of the Subcontractor Base Agreement with West Coast is attached hereto as **Exhibit 14.**
- 953. The Association has made allegations related to defective work, including that related to the insulation and other work with buildings in the Ole Community.
- 954. West Coast performed significant and substantial work related to the insulation of buildings in the Ole Community.
- 955. West Coast had a duty to perform its work in a workmanlike manner and in accordance with its contract.
- 956. West Coast breached its contract by performing work which contained defects and was not of workmanlike quality.
- 957. Insulation and other work on buildings in the Ole Community contained workmanship defects.
- 958. The defective work has caused damage including rip and tear, water damage, and damage to other property.

959. The defective work has caused damage to other property, including, but not limited to, the interior, trim, other building materials, work of other trades, and personal property with buildings in the Ole Community.
960. Stock Construction, LLC, has been damaged as a result of the defective work.
961. Stock Construction, LLC, has suffered damage as a result of West Coast's breach, including, but not limited to, the following:
- A. Investigative repair and remediation costs;
  - B. Attorneys' fees and costs incurred in defending and prosecuting claims regarding this matter;
  - C. Any potential settlement payments and other compensation paid to claimants;
  - D. Settlement payments made;
  - E. Litigation and consulting expert fees; and
  - F. Overhead and warranty costs other than expenses incurred as a result of this Defendant not honoring its indemnification obligation.
962. West Coast's defective workmanship was a substantial factor in the damage to the buildings in the Ole Community, which, under Florida law, renders West Coast liable for all of Stock's damages associated with West Coast's work.
963. Stock Construction, LLC, has been damaged by West Coast's breach.
964. The damages include, without limitation, remediation damages, overpayment, *et cetera*.
965. Stock Construction, LLC, has retained the law firm of Coleman, Yovanovich & Koester, P.A., to represent it in this matter, has incurred reasonable attorneys' fees

and costs in prosecuting this matter, and is entitled to the recovery of the same from West Coast.

966. Stock Construction, LLC, has satisfied all conditions precedent to maintaining this action, or all such conditions precedent have been waived.

**WHEREFORE**, Plaintiff, Stock Construction, LLC, respectfully request this Court to enter a judgment against Defendant, United Subcontractors, Inc., d/b/a NCR/West Coast Insulation, awarding Stock Construction, LLC, its damages, prejudgment interest, attorneys' fees, and costs incurred in this matter, and awarding Stock Construction, LLC, any further relief the Court deems just and appropriate.

**COUNT LX – CONTRACTUAL INDEMNIFICATION**  
**(West Coast)**

967. Stock Construction, LLC, sues West Coast for contractual indemnification based on claims, losses, damages, and expenses arising out of or resulting from West Coast's work.
968. Stock Construction, LLC, reasserts the allegations contained in paragraphs 1 through 37 above as though fully set forth herein.
969. Stock Construction, LLC, entered into a Subcontractor Base Agreement with West Coast to perform work, including the insulation, closet shelving, mirrors, and shower enclosures, for buildings in the Ole Community.
970. A true and correct copy of the Subcontractor Base Agreement with West Coast is attached hereto as **Exhibit 14.**
971. The Association has made allegations related to defective work, including that related to the insulation and other work with buildings in the Ole Community.



972. The defective work has caused damage including rip and tear, water damage, and damage to other property.
973. The defective work has caused damage to other property, including, but not limited to, the interior, trim, other building materials, work of other trades, and personal property with buildings in the Ole Community.
974. Stock Construction, LLC, has been damaged as a result of the defective work.
975. West Coast entered into the Subcontractor Base Agreement with Stock Construction, LLC, and through the Subcontract, specifically provided contractual indemnity to Stock Construction, LLC, and the Owner.
976. Despite demand, notice and opportunity to indemnify Stock Construction, LLC, West Coast has failed to do so.
977. Pursuant to West Coast's Subcontract, West Coast is obligated to pay Stock Construction, LLC's, attorneys' fees and costs.
978. Stock Construction, LLC, has suffered damage as a result of West Coast's failure to indemnify Stock Construction, LLC, including but not limited to the following:
- A. Investigative repair and remediation costs;
  - B. Attorneys' fees and costs incurred in defending and prosecuting claims regarding this matter;
  - C. Any potential settlement payments and other compensation paid to claimants;
  - D. Settlement payments made;
  - E. Litigation and consulting expert fees; and
  - F. Overhead and warranty costs other than expenses incurred as a result of this Defendant not honoring its indemnification obligation.

979. West Coast has a specific contractual obligation to repair and remediate, compensate Stock Construction, LLC, and then seek recovery through subrogation against otherwise responsible parties.
980. West Coast, by failing to take affirmative action to assist, indemnify, and hold Stock Construction, LLC, harmless, has caused and exacerbated damages suffered by Stock Construction, LLC.
981. In the event Stock Construction, LLC, obtains a judgment against any responsible party for claims, losses, damages, and expenses arising out of or resulting from West Coast's work, and such judgment is uncollectable, the amount of such uncollected judgment attributable to West Coast's work must be paid by West Coast, as the need for the litigation in obtaining the judgment was proximately caused by West Coast's failure to indemnify and hold harmless Stock Construction, LLC.
982. Stock Construction, LLC, is entitled to all its attorneys' fees and costs and interest on its attorneys' fees and costs incurred in litigating or dealing with claims with other subcontractors, product suppliers, vendors, the engineer, the Association, and any other necessary and proper defendants.
983. Stock Construction, LLC, has retained the law firm of Coleman, Yovanovich & Koester, P.A., to represent it in this matter, has incurred reasonable attorneys' fees and costs in prosecuting this matter, and is entitled to the recovery of the same from West Coast.
984. Stock Construction, LLC, has satisfied all conditions precedent to maintaining this action, or all such conditions precedent have been waived.

**WHEREFORE**, Plaintiff, Stock Construction, LLC, respectfully request this Court to enter a judgment against Defendant, United Subcontractors, Inc., d/b/a NCR/West Coast Insulation, awarding Stock Construction, LLC, its damages, prejudgment interest, attorneys' fees, and costs incurred in this matter, and awarding Stock Construction, LLC, any further relief the Court deems just and appropriate.

**COUNT LXI – BUILDING CODE VIOLATIONS**  
**(West Coast)**

- 985. Stock sues West Coast for building code violations.
- 986. Stock reasserts the allegations contained in paragraphs 1 through 37 above as though fully set forth herein.
- 987. Stock Construction, LLC, entered into a Subcontractor Base Agreement with West Coast to perform work, including the insulation, closet shelving, mirrors, and shower enclosures, for buildings in the Ole Community.
- 988. A true and correct copy of the Subcontractor Base Agreement with West Coast is attached hereto as **Exhibit 14.**
- 989. The Association has made allegations related to defective work, including that related to the insulation and other work with buildings in the Ole Community.
- 990. Section 553.84, Florida Statutes, empowers “any person or party” who has been “damaged as a result of a violation of [] the Florida Building Code” to assert a cause of action “against the person or party who committed the violation.”
- 991. West Coast performed work on and materially participated in the insulation of buildings in the Ole Community.

992. In so doing, West Coast violated Florida Building Code provisions related to insulation and associated waterproofing.
993. Stock has been damaged as a result of the defective and non-code-compliant work.
994. The defective work has caused damage including rip and tear, water damage, and damage to other property.
995. The defective work has caused damage to other property, including, but not limited to, the interior, trim, other building materials, work of other trades, and personal property with buildings in the Ole Community.
996. West Coast's defective workmanship was a substantial factor in the damage to buildings within the Ole Community, which, under Florida law, renders West Coast liable for all of Stock's damages associated with West Coast's actions.
997. West Coast is liable directly to Stock for the damages caused by and resulting from the building code violations.
998. Stock seeks recovery from West Coast for all damages incurred by Stock in connection with West Coast's building code violations, including without limitation the following:
- A. Investigative repair and remediation costs;
  - B. Attorneys' fees and costs incurred in defending and prosecuting claims regarding this matter;
  - C. Any potential settlement payments and other compensation paid to claimants;
  - D. Settlement payments made;
  - E. Litigation and consulting expert fees; and

F. Overhead and warranty costs other than expenses incurred as a result of this Defendant not honoring its indemnification obligation.

999. Stock has satisfied all conditions precedent to maintaining this action or all such conditions precedent have been waived.

**WHEREFORE**, Plaintiffs, Stock Development, LLC, and Stock Construction, LLC, respectfully request this Court to enter a judgment against Defendant, United Subcontractors, Inc., d/b/a NCR/West Coast Insulation, awarding Plaintiffs their damages, prejudgment interest, attorneys' fees and costs incurred in this matter, and awarding Plaintiffs any further relief the Court deems just and appropriate.

**COUNT LXII – BREACH OF WARRANTY**  
**(West Coast)**

1000. Stock Construction, LLC, sues West Coast for breach of warranty.

1001. Stock Construction, LLC, reasserts the allegations contained in paragraphs 1 through 37 above as though fully set forth herein.

1002. Stock Construction, LLC, entered into a Subcontractor Base Agreement with West Coast to perform work, including the insulation, closet shelving, mirrors, and shower enclosures, for buildings in the Ole Community.

1003. A true and correct copy of the Subcontractor Base Agreement with West Coast is attached hereto as **Exhibit 14.**

1004. The Association has made allegations related to defective work, including that related to the insulation and other work with buildings in the Ole Community.

1005. Stock Construction, LLC, has provided notice to West Coast breaching its warranty obligations for the work performed by West Coast in the Ole Community.

1006. Stock Construction, LLC, has been damaged by West Coast's breach of warranty.
1007. Stock Construction, LLC, has been damaged as a result of the defective work.
1008. The defective work has caused damage including rip and tear, water damage, and damage to other property.
1009. The defective work has caused damage to other property, including, but not limited to, the interior, trim, other building materials, work of other trades, and personal property with buildings in the Ole Community.
1010. Stock Construction, LLC, seeks recovery from West Coast for all of Stock Construction, LLC's, damages, including without limitation:
- A. Investigative repair and remediation costs;
  - B. Attorneys' fees and costs incurred in defending and prosecuting claims regarding this matter;
  - C. Any potential settlement payments and other compensation paid to claimants;
  - D. Settlement payments made;
  - E. Litigation and consulting expert fees; and
  - F. Overhead and warranty costs other than expenses incurred as a result of this Defendant not honoring its indemnification obligation.
1011. Stock has satisfied all conditions precedent to maintaining this action or all such conditions precedent have been waived.

**WHEREFORE**, Plaintiff, Stock Construction, LLC, respectfully request this Court to enter a judgment against Defendant, United Subcontractors, Inc., d/b/a NCR/West Coast Insulation, awarding Stock Construction, LLC, its damages, prejudgment interest, attorneys' fees

and costs incurred in this matter, and awarding Stock Construction, LLC, any further relief the Court deems just and appropriate.

**COUNT LXIII – BREACH OF CONTRACT**  
**(J & D Heating)**

1012. Stock Construction, LLC, sues J & D Heating for breach of contract.
1013. Stock Construction, LLC, reasserts the allegations contained in paragraphs 1 through 37 above as though fully set forth herein.
1014. Stock Construction, LLC, entered into a Subcontractor Base Agreement with J & D Heating to perform work related to the installation of heating, ventilating, and air conditioning units (“HVAC”) in buildings in the Ole Community.
1015. A true and correct copy of the J & D Heating Subcontract Base Agreement is attached to hereto as **Exhibit 15.**
1016. The Association has made allegations related to defective work, including, but not limited to, that related to the HVAC units in buildings in the Ole Community.
1017. J & D Heating performed significant and substantial work related to the installation of HVAC units in buildings in the Ole Community.
1018. J & D Heating had a duty to perform its work in a workmanlike manner and in accordance with its contracts.
1019. J & D Heating breached its contract by performing work which contained defects and was not of workmanlike quality.
1020. The HVAC units contained workmanship defects.
1021. The defective work has caused damage including rip and tear, water damage, and damage to other property.

1022. The defective work caused damage to other property, including, but not limited to, the interior, trim, other building materials, work of other trades, and personal property with buildings in the Ole Community.
1023. Stock Construction, LLC, has been damaged as a result of the defective work.
1024. Stock Construction, LLC, has suffered damage as a result of J & D Heating's breach, including, but not limited to, the following:
- A. Investigative repair and remediation costs;
  - B. Attorneys' fees and costs incurred in defending and prosecuting claims regarding this matter;
  - C. Any potential settlement payments and other compensation paid to claimants;
  - D. Litigation and consulting expert fees; and
  - E. Overhead and warranty costs other than expenses incurred as a result of this Defendant not honoring its indemnification obligation
1025. J & D Heating's workmanship was a substantial factor in the damage to buildings in the Paseo Community, which, under Florida law, renders J & D Heating liable for all of Stock's damages associated with J & D Heating's work.
1026. Stock Construction, LLC, has been damaged by J & D Heating's breach.
1027. The damages include, without limitation, remediation damages, overpayment, *et cetera*.
1028. Stock Construction, LLC, has retained the law firm of Coleman, Yovanovich & Koester, P.A., to represent it in this matter, has incurred reasonable attorneys' fees and costs in prosecuting this matter, and is entitled to the recovery of the same from J & D Heating.



1029. Stock Construction, LLC, has satisfied all conditions precedent to maintaining this action, or all such conditions precedent have been waived.

**WHEREFORE**, Plaintiff, Stock Construction, LLC, respectfully requests this Court to enter a judgment against Defendant, J & D Heating and Air Conditioning., Inc., awarding Stock Construction, LLC, its damages, prejudgment interest, attorneys' fees, and costs incurred in this matter, and awarding Stock Construction, LLC, any further relief the Court deems just and appropriate.

**COUNT LXIV – CONTRACTUAL INDEMNIFICATION**  
**(J & D Heating)**

1030. Stock Construction, LLC, sues J & D Heating for contractual indemnification based on claims, losses, damages, and expenses arising out of or resulting from J & D Heating's work.

1031. Stock Construction, LLC, reasserts the allegations contained in paragraphs 1 through 37 above as though fully set forth herein.

1032. Stock Construction, LLC, entered into a Subcontractor Base Agreement with J & D Heating to perform work related to the installation of HVAC units in buildings in the Ole Community.

1033. A true and correct copies of the J & D Heating Subcontract Base Agreement is attached hereto as **Exhibit 15.**

1034. The Association has made allegations related to defective work, including, but not limited to, that related to the HVAC units in many of the buildings in the Paseo Community.

1035. The defective work has caused damage including rip and tear, water damage, and damage to other property.
1036. The defective work has caused damage to other property, including, but not limited to, the interior, trim, other building materials, work of other trades, and personal property with buildings in the Ole Community.
1037. Stock Construction, LLC, has been damaged as a result of the defective work.
1038. J & D Heating entered into the Subcontract with Stock Construction, LLC, and through the Subcontract, specifically provided contractual indemnity to Stock Construction, LLC, and the Owner.
1039. Despite demand, notice and opportunity to indemnify Stock Construction, LLC, J & D Heating has failed to do so.
1040. Pursuant to J & D Heating's Subcontract, J & D Heating is obligated to pay Stock Construction, LLC's, attorneys' fees and costs.
1041. Stock Construction, LLC, has suffered damage as a result of J & D Heating's failure to indemnify Stock Construction, LLC, including but not limited to the following:
- A. Investigative repair and remediation costs;
  - B. Attorneys' fees and costs incurred in defending and prosecuting claims regarding this matter;
  - C. Any potential settlement payments and other compensation paid to claimants;
  - D. Litigation and consulting expert fees; and
  - E. Overhead and warranty costs other than expenses incurred as a result of this Defendant not honoring its indemnification obligation.

1042. J & D Heating has a specific contractual obligation to repair and remediate, compensate Stock Construction, LLC, and then seek recovery through subrogation against otherwise responsible parties.
1043. J & D Heating, by failing to take affirmative action to assist, indemnify, and hold Stock Construction, LLC, harmless, has caused and exacerbated damages suffered by Stock Construction, LLC.
1044. In the event Stock Construction, LLC, obtains a judgment against any responsible party for claims, losses, damages, and expenses arising out of or resulting from J & D Heating's work, and such judgment is uncollectable, the amount of such uncollected judgment attributable to J & D Heating's work must be paid by J & D Heating, as the need for the litigation in obtaining the judgment was proximately caused by J & D Heating's failure to indemnify and hold harmless Stock Construction, LLC.
1045. Stock Construction, LLC, is entitled to all its attorneys' fees and costs and interest on its attorneys' fees and costs incurred in litigating or dealing with claims with other subcontractors, product suppliers, vendors, the engineer, the Association, and any other necessary and proper defendants.
1046. Stock Construction, LLC, has retained the law firm of Coleman, Yovanovich & Koester, P.A., to represent it in this matter, has incurred reasonable attorneys' fees and costs in prosecuting this matter, and is entitled to the recovery of the same from J & D Heating.
1047. Stock Construction, LLC, has satisfied all conditions precedent to maintaining this claim, or all such conditions precedent have been waived.

**WHEREFORE**, Plaintiff, Stock Construction, LLC, respectfully requests this Court to enter a judgment against Defendant, J & D Heating and Air Conditioning, Inc., awarding Stock Construction, LLC, its damages, prejudgment interest, attorneys' fees, and costs incurred in this matter, and awarding Stock Construction, LLC, any further relief the Court deems just and appropriate.

**COUNT LXV – BUILDING CODE VIOLATIONS**  
**(J & D Heating)**

- 1048. Stock sues J & D Heating for building code violations.
- 1049. Stock reasserts the allegations contained in paragraphs 1 through 37 above as though fully set forth herein.
- 1050. Stock Construction, LLC, entered into a Subcontractor Base Agreement with J & D Heating to perform work related to the installation of HVAC units in buildings in the Ole Community.
- 1051. A true and correct copy of the J & D Heating Subcontract Base Agreement is attached hereto as **Exhibit 15**.
- 1052. The Association has made allegations related to defective work, including, but not limited to, that related to the HVAC units in buildings in the Ole Community.
- 1053. Section 553.84, Florida Statutes, empowers “any person or party” who has been “damaged as a result of a violation of [] the Florida Building Code” to assert a cause of action “against the person or party who committed the violation.”
- 1054. J & D Heating performed work on and materially participated in the installation of certain HVAC units in many of the buildings in the Ole Community.

1055. In so doing, J & D Heating violated Florida Building Code provisions related to the installation of HVAC units and associated weather protection/waterproofing.
1056. Stock has been damaged as a result of the defective and non-code-compliant work.
1057. The defective work has caused damage including rip and tear, water damage, and damage to other property.
1058. The defective work caused damage to other property, including, but not limited to, the interior, trim, other building materials, work of other trades, and personal property with buildings in the Ole Community.
1059. J & D Heating's defective workmanship was a substantial factor in the damage to buildings within the Ole Community, which, under Florida law, renders J & D Heating liable for all of Stock's damages associated with J & D Heating's actions.
1060. J & D Heating is liable directly to Stock for the damages caused by and resulting from the building code violations.
1061. Stock seeks recovery from J & D Heating for all damages incurred by Stock in connection with J & D Heating's building code violations, including without limitation the following:
- A. Investigative repair and remediation costs;
  - B. Attorneys' fees and costs incurred in defending and prosecuting claims regarding this matter;
  - C. Any potential settlement payments and other compensation paid to claimants;
  - D. Litigation and consulting expert fees; and
  - E. Overhead and warranty costs other than expenses incurred as a result of this Defendant not honoring its indemnification obligation

1062. Stock has satisfied all conditions precedent to maintaining this action or all such conditions precedent have been waived.

**WHEREFORE**, Plaintiffs, Stock Construction, LLC, and Stock Development, LLC, respectfully request this Court to enter a judgment against Defendant, J & D Heating and Air Conditioning, Inc., awarding Plaintiffs their damages, prejudgment interest, attorneys' fees and costs incurred in this matter, and awarding Plaintiffs any further relief the Court deems just and appropriate.

**COUNT LXVI – BREACH OF WARRANTY**  
**(J & D Heating)**

1063. Stock Construction, LLC, sues J & D Heating for breach of warranty.

1064. Stock Construction, LLC, reasserts the allegations contained in paragraphs 1 through 37 above as though fully set forth herein.

1065. Stock Construction, LLC, entered into a Subcontractor Base Agreement with J & D Heating to perform work related to the installation of HVAC units in buildings in the Ole Community.

1066. A true and correct copy of the J & D Heating Subcontract Base Agreement is attached hereto as **Exhibit 15**.

1067. The Association has made allegations related to defective work, including, but not limited to, that related to the HVAC units in buildings in the Ole Community.

1068. Stock Construction, LLC, has provided notice to J & D Heating of J & D Heating breaching its warranty obligations for the work performed by J & D Heating in the Paseo Community.

1069. Stock Construction, LLC, has provided notice to J & D Heating of J & D Heating breaching its warranty obligations for the work performed by J & D Heating in the Paseo Community.
1070. Stock Construction, LLC, has been damaged by J & D Heating's breach of warranty.
1071. Stock Construction, LLC, has been damaged as a result of the defective work.
1072. The defective work has caused damage including rip and tear, water damage, and damage to other property.
1073. The defective work has caused damage to other property, including, but not limited to, the interior, trim, other building materials, work of other trades, and personal property with buildings in the Ole Community.
1074. Stock Construction, LLC, seeks recovery from J & D Heating for all of Stock Construction, LLC's, damages, including without limitation:
- A. Investigative repair and remediation costs;
  - B. Attorneys' fees and costs incurred in defending and prosecuting claims regarding this matter;
  - C. Any potential settlement payments and other compensation paid to claimants;
  - D. Litigation and consulting expert fees; and
  - E. Overhead and warranty costs other than expenses incurred as a result of this Defendant not honoring its indemnification obligation
1075. Stock Construction, LLC, has satisfied all conditions precedent to maintaining this action or all such conditions precedent have been waived.

**WHEREFORE**, Plaintiff, Stock Construction, LLC, respectfully requests this Court to enter a judgment against Defendant, J & D Heating and Air Conditioning, Inc., awarding Stock

Construction, LLC, its damages, prejudgment interest, attorneys' fees and costs incurred in this matter, and awarding Stock Construction, LLC, any further relief the Court deems just and appropriate.

**COUNT LXVII – BREACH OF CONTRACT**  
**(GFA)**

- 1076. Stock Construction, LLC, sues GFA for breach of contract.
- 1077. Stock Construction, LLC, reasserts the allegations contained in paragraphs 1 through 37 above as though fully set forth herein.
- 1078. Stock Construction, LLC, entered into a Subcontractor Base Agreement with GFA to perform work related to testing services, inspection, and/or engineering services on buildings in the Ole Community.
- 1079. A true and correct copy of the Subcontractor Base Agreement with GFA is attached hereto as **Exhibit 16.**
- 1080. The Association has made allegations related to major defects in the construction of buildings in the Ole Community.
- 1081. GFA performed significant and substantial work related to testing services, inspection, and/or engineering services on buildings in the Ole Community.
- 1082. GFA had a duty to perform its work in a workmanlike manner and in accordance with its contract.
- 1083. GFA breached its contract by performing work which contained defects and was not of workmanlike quality.
- 1084. The construction of buildings in the Ole Community contained workmanship defects.



1085. The defective work has caused damage including rip and tear, water damage, and damage to other property.
1086. The defective work has caused damage to other property, including, but not limited to, the interior, trim, other building materials, work of other trades, and personal property with buildings in the Ole Community.
1087. Stock Construction, LLC, has been damaged as a result of the defective work.
1088. Stock Construction, LLC, has suffered damage as a result of GFA's breach, including, but not limited to, the following:
- A. Investigative repair and remediation costs;
  - B. Attorneys' fees and costs incurred in defending and prosecuting claims regarding this matter;
  - C. Any potential settlement payments and other compensation paid to claimants;
  - D. Litigation and consulting expert fees; and
  - E. Overhead and warranty costs other than expenses incurred as a result of this Defendant not honoring its indemnification obligation.
1089. GFA's defective workmanship was a substantial factor in the damage to the buildings in the Ole Community, which, under Florida law, renders GFA liable for all of Stock's damages associated with GFA's work.
1090. Stock Construction, LLC, has been damaged by GFA's breach.
1091. The damages include, without limitation, remediation damages, overpayment, *et cetera*.
1092. Stock Construction, LLC, has retained the law firm of Coleman, Yovanovich & Koester, P.A., to represent it in this matter, has incurred reasonable attorneys' fees

and costs in prosecuting this matter, and is entitled to the recovery of the same from GFA.

1093. Stock Construction, LLC, has satisfied all conditions precedent to maintaining this action, or all such conditions precedent have been waived.

1094. **WHEREFORE**, Plaintiff, Stock Construction, LLC, respectfully requests this Court to enter a judgment against Defendant, GFA International, Inc., awarding Stock Construction, LLC, its damages, prejudgment interest, attorneys' fees, and costs incurred in this matter, and awarding Stock Construction, LLC, any further relief the Court deems just and appropriate.

**COUNT LXVIII – CONTRACTUAL INDEMNIFICATION**  
**(GFA)**

1095. Stock Construction, LLC, sues GFA for contractual indemnification based on claims, losses, damages, and expenses arising out of or resulting from GFA's work.

1096. Stock Construction, LLC, reasserts the allegations contained in paragraphs 1 through 37 above as though fully set forth herein.

1097. Stock Construction, LLC, entered into a Subcontractor Base Agreement with GFA to perform work related to testing services, inspection, and/or engineering services on buildings in the Ole Community.

1098. A true and correct copy of the Subcontractor Base Agreement with GFA is attached hereto as **Exhibit 16**.

1099. The Association has made allegations related to major defects in the construction of buildings in the Ole Community.

1100. The defective work has caused damage including rip and tear, water damage, and damage to other property
1101. The defective work has caused damage to other property, including, but not limited to, the interior, trim, other building materials, work of other trades, and personal property with buildings in the Ole Community.
1102. Stock Construction, LLC, has been damaged as a result of the defective work.
1103. GFA entered into a Subcontract with Stock Construction, LLC, and through the Subcontract, specifically provided contractual indemnity to Stock Construction, LLC, and the Owner.
1104. Despite demand, notice and opportunity to indemnify Stock Construction, LLC, GFA has failed to do so.
1105. Pursuant to GFA's Subcontract, GFA is obligated to pay Stock Construction, LLC's, attorneys' fees and costs.
1106. Stock Construction, LLC, has suffered damage as a result of GFA's failure to indemnify Stock Construction, LLC, including, but not limited to, the following:
- A. Investigative repair and remediation costs;
  - B. Attorneys' fees and costs incurred in defending and prosecuting claims regarding this matter;
  - C. Any potential settlement payments and other compensation paid to claimants;
  - D. Litigation and consulting expert fees; and
  - E. Overhead and warranty costs other than expenses incurred as a result of this Defendant not honoring its indemnification obligation.

1107. GFA has a specific contractual obligation to repair and remediate, compensate Stock Construction, LLC, and then seek recovery through subrogation against otherwise responsible parties.
1108. GFA, by failing to take affirmative action to assist, indemnify, and hold Stock Construction, LLC, harmless, has caused and exacerbated damages suffered by Stock Construction, LLC.
1109. In the event Stock Construction, LLC, obtains a judgment against any responsible party for claims, losses, damages, and expenses arising out of or resulting from GFA's work, and such judgment is uncollectable, the amount of such uncollected judgment attributable to GFA's work must be paid by GFA, as the need for the litigation in obtaining the judgment was proximately caused by GFA's failure to indemnify and hold harmless Stock Construction, LLC.
1110. Stock Construction, LLC, is entitled to all its attorneys' fees and costs and interest on its attorneys' fees and costs incurred in litigating or dealing with claims with other subcontractors, product suppliers, vendors, the engineer, the Association, and any other necessary and proper defendants.
1111. Stock Construction, LLC, has retained the law firm of Coleman, Yovanovich & Koester, P.A., to represent it in this matter, has incurred reasonable attorneys' fees and costs in prosecuting this matter, and is entitled to the recovery of the same from GFA.
1112. Stock Construction, LLC, has satisfied all conditions precedent to maintain this claim, or all such conditions precedent have been waived.

**WHEREFORE**, Plaintiff, Stock Construction, LLC, respectfully requests this Court to enter a judgment against Defendant, GFA International, Inc., awarding Stock Construction, LLC, its damages, prejudgment interest, attorneys' fees, and costs incurred in this matter, and awarding Stock Construction, LLC, any further relief the Court deems just and appropriate.

**COUNT LXIX – BUILDING CODE VIOLATIONS**  
**(GFA)**

- 1113. Stock sues GFA for building code violations.
- 1114. Stock reasserts the allegations contained in paragraphs 1 through 37 above as though fully set forth herein.
- 1115. Stock Construction, LLC, entered into a Subcontractor Base Agreement with GFA to perform work related to testing services, inspection, and/or engineering services on buildings in the Ole Community.
- 1116. A true and correct copy of the Subcontractor Base Agreement with GFA is attached hereto as **Exhibit 16.**
- 1117. The Association has made allegations related to major defects in the construction of buildings in the Ole Community.
- 1118. Section 553.84, Florida Statutes, empowers “any person or party” who has been “damaged as a result of a violation of [] the Florida Building Code” to assert a cause of action “against the person or party who committed the violation.”
- 1119. GFA performed work on and materially participated in testing services, inspection, and/or engineering services on buildings in the Ole Community.
- 1120. GFA specifically failed to disclose the existence of the Florida Building Code violations and therefore participated and violated the Florida Building Code.

1121. Stock has been damaged as a result of the defective and non-code-compliant work.
1122. The defective work has caused damage including rip and tear, water damage, and damage to other property.
1123. The defective work caused damage to other property, including, but not limited to, the interior, trim, other building materials, work of other trades, and personal property with buildings in the Ole Community.
1124. GFA's defective workmanship was a substantial factor in the damage to buildings within the Ole Community, which, under Florida law, renders GFA liable for all of Stock's damages associated with GFA's actions.
1125. GFA is liable directly to Stock for the damages caused by and resulting from the building code violations.
1126. Stock seeks recovery from GFA for all damages incurred by Stock in connection with Franco building code violations, including without limitation the following:
- A. Investigative repair and remediation costs;
  - B. Attorneys' fees and costs incurred in defending and prosecuting claims regarding this matter;
  - C. Any potential settlement payments and other compensation paid to claimants;
  - D. Litigation and consulting expert fees; and
  - E. Overhead and warranty costs other than expenses incurred as a result of this Defendant not honoring its indemnification obligation.
1127. Stock has satisfied all conditions precedent to maintaining this action or all such conditions precedent have been waived.

**WHEREFORE**, Plaintiffs, Stock Construction, LLC, and Stock Development, LLC, respectfully request this Court to enter a judgment against Defendant, GFA International, Inc., awarding Plaintiffs their damages, prejudgment interest, attorneys' fees and costs incurred in this matter, and awarding Plaintiffs any further relief the Court deems just and appropriate.

**COUNT LXX – BREACH OF WARRANTY**  
**(GFA)**

- 1128. Stock Construction, LLC, sues GFA for breach of warranty.
- 1129. Stock Construction, LLC, reasserts the allegations contained in paragraphs 1 through 37 above as though fully set forth herein.
- 1130. Stock Construction, LLC, entered into a Subcontractor Base Agreement with GFA to perform work related to testing services, inspection, and/or engineering services on buildings in the Ole Community.
- 1131. A true and correct copy of the Subcontractor Base Agreement with GFA is attached hereto as **Exhibit 16.**
- 1132. The Association has made allegations related to major defects in the construction of buildings in the Ole Community.
- 1133. Stock Construction, LLC, has provided notice to GFA of GFA breaching its warranty obligations for the work performed by GFA in the Ole Community.
- 1134. Stock Construction, LLC, has been damaged by GFA's breach of warranty.
- 1135. Stock Construction, LLC, has been damaged as a result of the defective work.
- 1136. The defective work has caused damage including rip and tear, water damage, and damage to other property

1137. The defective work has caused damage to other property, including, but not limited to, the interior, trim, other building materials, work of other trades, and personal property with buildings in the Ole Community.
1138. Stock Construction, LLC, seeks recovery from GFA for all of Stock Construction, LLC's, damages, including without limitation:
- A. Investigative repair and remediation costs;
  - B. Attorneys' fees and costs incurred in defending and prosecuting claims regarding this matter;
  - C. Any potential settlement payments and other compensation paid to claimants;
  - D. Litigation and consulting expert fees; and
  - E. Overhead and warranty costs other than expenses incurred as a result of this Defendant not honoring its indemnification obligation.
1139. Stock has satisfied all conditions precedent to maintaining this action or all such conditions precedent have been waived.

**WHEREFORE**, Plaintiff, Stock Construction, LLC, respectfully requests this Court to enter a judgment against Defendant, GFA International, Inc., awarding Stock Construction, LLC, its damages, prejudgment interest, attorneys' fees and costs incurred in this matter, and awarding Stock Construction, LLC, any further relief the Court deems just and appropriate.

**DEMAND FOR JURY TRIAL**

Stock demands a jury trial on all issues so triable.



Dated this 20th day of August 2018.

**COLEMAN, YOVANOVICH & KOESTER, P.A.**

By: /s/ Edmond E. Koester

Edmond E. Koester  
Florida Bar No. 87882  
Richard D. Yovanovich  
Florida Bar No. 782599  
Caroline Marisa Magliolo  
Florida Bar No. 89363  
4001 Tamiami Trail North, Suite 300  
Naples, Florida 34103  
239.435.3535  
239.435.1218 Facsimile  
*Counsel for Stock Development, LLC,  
and Stock Construction, LLC*

Primary: [ekoester@cyklawfirm.com](mailto:ekoester@cyklawfirm.com)  
Primary: [cmagliolo@cyklawfirm.com](mailto:cmagliolo@cyklawfirm.com)  
Secondary: [rstoeva@cyklawfirm.com](mailto:rstoeva@cyklawfirm.com)  
Secondary: [cykservice@cyklawfirm.com](mailto:cykservice@cyklawfirm.com)

| Index of Exhibits |   |
|-------------------|---|
| Exhibit No.       | Exhibit   |
| 1.                | Subcontractor Base Agreement with Carpenter     |
| 2.                | Subcontractor Base Agreement with Creative Door |
| 3.                | Subcontractor Base Agreement with Daly          |
| 4.                | Subcontractor Base Agreement with Gulf Western  |
| 5.                | Subcontractor Base Agreement with Hansen        |
| 6.                | Subcontractor Base Agreement with JMC Coating   |
| 7.                | Subcontractor Base Agreement with JMC Painting  |
| 8.                | Subcontractor Base Agreement with Pace          |
| 9.                | Subcontractor Base Agreement with Prime         |
| 10.               | Subcontractor Base Agreement with Pro-Frame     |
| 11.               | Subcontractor Base Agreement with Siltech       |
| 12.               | Subcontractor Base Agreement with Sutton        |

| <b>Index of Exhibits</b> |   |
|--------------------------|---|
| <b>Exhibit No.</b>       | <b>Exhibit</b>                                  |
| <b>13.</b>               | Subcontractor Base Agreement with Franco        |
| <b>14.</b>               | Subcontractor Base Agreement with West Coast    |
| <b>15.</b>               | Subcontractor Base Agreement with J & D Heating |
| <b>16.</b>               | Subcontractor Base Agreement with GFA           |

# EXHIBIT 1



2647 Professional Circle • Suite 1201 • Naples, FL 34119

Subcontractor Base Agreement

NAME OF SUBCONTRACTOR: CARPENTER CONTRACTORS OF AMERICA, INC.  
 OWNERSHIP: ☒ CORPORATION ☐ PARTNERSHIP ☐ PROPRIETORSHIP ☐ LIMITED LIABILITY COMPANY  
 NAME(S) OF PRINCIPAL OFFICERS, PARTNERS OR OWNERS: BILL FRITSLY - President  
 SUBCONTRACTOR'S EIN OR SOCIAL SECURITY NO.: [REDACTED]  
 BUSINESS ADDRESS: 2140 ANDREA LN. FLEMING, FL. 33912  
 PHONE 239-437-1100 FAX 239-437-0139 EMAIL tan@carpentercontractors.com

THIS AGREEMENT ("Agreement") made and entered into this 25 day of FEBRUARY, 2011, by and between Stock Construction, LLC, a Florida limited liability company, its successors and/or assigns ("Stock") and CARPENTER CONTRACTORS OF AMERICA, INC. ("Subcontractor").

1. As used herein the following terms shall have the meanings specified unless the context otherwise requires.
  - (a) "Bid/Proposal" shall have the meaning specified in Paragraph 4.
  - (b) "Contract Documents" shall mean this Agreement, together with any and all Subcontractor Safety & Health Standards (Field Guidelines), Work Notification Forms, Bid/Proposals, and Plans and Specifications issued or utilized in connection with Work performed by Subcontractor.
  - (c) "FHA" shall mean the Federal Housing Administration.
  - (d) "Plans and Specifications" shall mean approved foundation plans, frame plans, floor plans, elevation plans, blueprints, construction sheet details, and other specifications, including FHA manuals.
  - (e) "Project" shall mean the following: \_\_\_\_\_
  - (f) "Stock" shall have the meaning specified in the beginning paragraph of this Agreement.
  - (g) "Subcontractor" shall have the meaning specified in the beginning paragraph of this Agreement and shall include Subcontractor's subcontractors, laborers, materialmen, agents, or employees, and anyone for whose acts any of them may be liable.
  - (h) "VA" shall mean the U S Department of Veterans Affairs.
  - (i) "Work" shall include, without limitation, any and all of the work specified in Paragraph 3 below, and any and all change order work, extra work, work included on all Work Notification Forms, unbudgeted work, and other work directed by Stock to be performed by Subcontractor, including but not limited to the management, supervision, financing, labor, materials, tools, fuel, supplies, utilities, equipment and services of every kind and type necessary to diligently, timely, and fully perform and complete in a good and workmanlike manner the Work required by the Contract Documents.
  - (j) "Work Notification Form" shall mean a written order issued by Stock to Subcontractor specifying certain Work to be performed; the term Work Notification Form shall include forms designated "Purchase Order", "Job Start Order", "Field Purchase Order", and other similar designations and containing certain information about commencing such Work and the payment for such Work.
2. **NON-EXCLUSIVITY:** The purpose of this Agreement is to fix the obligations of Stock and Subcontractor as to the performance by Subcontractor of certain described Work. Subcontractor acknowledges that this Agreement is nonexclusive and that Stock is free to contract with any other person or entity for the performance of work which is the same or similar to that described in this Agreement. Subcontractor is also free to enter into third party contracts with any other subcontractor, laborer and/or materialmen for the provision of the Work to be provided hereunder. Subcontractor will ensure that such other work performed by third party subcontractors, laborers and materialmen does not interfere with Subcontractor's performance under the Contract Documents and all such other contracts shall not be deemed a direct contract between Stock and such third party subcontractors laborers, or materialmen. This Agreement shall not be construed as obligating Stock to accept bids or issue Work Notification Forms to Subcontractor.

*[Handwritten initials]*

- 3 **SCOPE OF WORK:** The Work to be performed by Subcontractor shall be more specifically described in subsequently issued Work Notification Forms but is generally described as: SHELL CONTRACTING AND  
T-RUSS SUPPLIER

Cost Code No: \_\_\_\_\_

As set forth above, in conjunction with this Agreement, Stock may issue Work Notification Forms from time to time, covering the Work to be performed and time for completion at each specific job location. Subcontractor shall have no authority to commence Work at any job location until it has received a Work Notification Form for a specific job location. It shall be Subcontractor's responsibility to obtain a Work Notification Form before beginning any Work at a specific job location. In the event Subcontractor's proposal, estimate or similar document is attached to or referenced in a Work Notification Form issued by Stock, only those terms which define or identify the work to be performed by Subcontractor shall be incorporated as part of the Work Notification Form and/or this Agreement and any remaining portions of Subcontractor's proposal, estimate or similar document shall not be considered part of the Work Notification Form, this Agreement, or any agreement between Stock and Subcontractor. No substitutions shall be allowed in the performance of the Work unless expressly provided in the Plans and Specifications or applicable Work Notification Form, and only then upon Subcontractor first receiving all approvals required from Stock for substitutions. Subcontractor shall indemnify Stock for all loss, damage and expense incurred as a result of such substitutions, whether or not Subcontractor has obtained approval thereof.

- 4 **PRICING and PAYMENTS:** Subcontractor has submitted to Stock a Bid/Proposal pursuant to Stock's "invitation to bid" for Work, receipt of which is acknowledged thereon by Stock, which Bid/Proposal is incorporated herein by reference. The Bid/Proposal may be modified by Subcontractor only by a subsequent written and dated amendment, as approved by and receipt of which shall be acknowledged thereon by Stock, which approval Stock may withhold in its sole and absolute discretion. Upon acceptance and approval by Stock, such amended Bid/Proposal shall be attached hereto and incorporated herein by reference. The Bid/Proposal in effect at the time of the issuance of any Work Notification Form shall be applicable to all Work to be performed thereunder, without variation, unless otherwise approved in writing by Stock. Subcontractor acknowledges that its compensation is a fixed contractual rate, subject to modification under the next clause of this contract for changes in the Work required. Compensation under the Contract Documents is not hourly compensation. Subcontractor agrees that payment shall be made to the entity named in the beginning paragraph of this Agreement, and not to any individual person which provides Work pursuant to this Agreement.

Notwithstanding anything in this Agreement to the contrary, Subcontractor's right to any payment under this Agreement is expressly contingent and conditioned upon: (1) Stock's determination that all Work to be performed pursuant to a particular Work Notification Form has been completed satisfactorily; (2) If requested by Stock, the Subcontractor delivering to Stock a full and complete release of all liens and claims of Subcontractor and any and all of its subcontractors and suppliers of materials, labor, equipment, work, tools, services and other items furnished in connection with the Work; and (3) If requested by Stock, the Subcontractor delivering to Stock an affidavit (in a form satisfactory to Stock) that provides that so far as Subcontractor is able to ascertain, no person or entity other than the persons or entities furnishing such waivers and releases, has a right to any such lien or claim for materials, labor, equipment, work, tools, services or other items furnished in connection with the Work.

Notwithstanding anything in this Agreement to the contrary, if requested by Stock, Subcontractor's failure to supply these lien waivers and releases will negate any request for payment until such time as the lien waivers and releases are provided. If any lien or claim remains outstanding after all payments are made, Subcontractor shall refund to Stock all monies that Stock may be compelled to pay in discharging or resolving such lien or claim, including, without limitation, attorney's fees and costs. If Subcontractor fails to make any such refund within fifteen (15) days of notice to Subcontractor from Stock, Subcontractor shall be in breach of this Agreement, and Stock may, in addition to any other right and remedy, withhold from any sums due or to become due Subcontractor under this or any other Agreement such amount as may be required, in Stock's sole discretion, to discharge or resolve any such lien or claim, and to reimburse Stock for the applicable fees and costs incurred by Stock. Subcontractor shall defend, indemnify and hold harmless Stock and Stock's purchaser from the operation and effect of any lien or encumbrance arising out of the performance of Subcontractor's work, and shall turn over the property subject to the Work, including any improvements thereon, to Stock free and clear of all such liens and encumbrances. If any such lien or encumbrance is claimed by any person or entity performing any portion of Subcontractor's work, Subcontractor shall, immediately upon verbal notice from Stock, discharge same by payment or posting a sufficient bond to transfer the lien or encumbrance from the real property to the bond. If Subcontractor continues to receive payments from Stock, Subcontractor will hold these payments and the rights to future payments from Stock in trust for the benefit of, and to be first applied to payment of those subcontractors, laborers, equipment suppliers and material suppliers who have performed any portion of Subcontractor's work, before using any portion of such payment for any other purpose. In the event Stock has reason to believe that labor, material, equipment or other obligations of Subcontractor incurred in

the performance of Subcontractor's work are not being promptly paid, Stock may, upon giving written notice to Subcontractor, take any steps deemed necessary to ensure that any payments from Stock to Subcontractor shall be utilized to pay such obligations. Upon such written notice, Stock may require Subcontractor to supply satisfactory evidence that Subcontractor's obligations have been paid or to post a payment and performance bond for the protection of Stock, its purchaser, and those to whom Subcontractor has an obligation for payment. The failure of Subcontractor to provide either of these means of security shall entitle Stock to retain out of any payment due or become due to Subcontractor a reasonable amount to protect Stock from any and all loss, damage or expense including attorney's fees arising out of or relating to any such claim or lien from one to whom Subcontractor has an obligation until the claim or lien has been satisfied by Subcontractor.

Acceptance of Work and payment therefore by Stock under this paragraph shall not be construed as a waiver by Stock for Work later found defective and shall not release the Subcontractor from liability under any warranty for defective Work or for any obligation to perform warranty service Work.

5. **SUBCONTRACTOR REVIEW and INSPECTION:** Subcontractor expressly agrees to read and familiarize itself completely with all Contract Documents, including but not limited to the Plans and Specifications applicable to this Agreement or any Work Notification Form, to independently verify all information furnished by Stock or contained in the Plans and Specifications and to inspect the job site before starting any Work under a Work Notification Form. Subcontractor shall immediately report in writing to Stock any discrepancy, deficiency, variance from or violation of any laws, ordinances, rules, regulations or orders of any public authorities observed or known to Subcontractor in the Work, Plans and Specifications or at the job site. All Plans and Specifications furnished to Subcontractor by Stock are the property of Stock and shall not be duplicated or used for any purpose other than the performance of the Work and must be returned to Stock at the completion of Subcontractor's Work. Subcontractor shall be solely responsible for all construction under this Agreement and any Work Notification Form, including the techniques, sequences, procedures and means, and for coordination of all Work.

Subcontractor has made an independent investigation of the site, and the soil conditions and has satisfied itself as to all of these conditions such that the Bid/Proposal include payments for all Work which may be performed by Subcontractor to overcome any unanticipated, underground, or concealed conditions. Subcontractor waives any and all rights and claims for any changes to the Work Notification Form amount for any items or claims which Subcontractor could have become aware of prior to accepting the Work Notification Form and/or commencing Work thereunder had its examinations of the Project been conducted in a reasonable manner.

Subcontractor shall be responsible for inspecting any work of another contractor that may affect its own Work and shall report in writing to Stock any defects in such work upon discovery of the defect prior to commencing any portion of the Work, or it shall be deemed to have accepted such work as correct and fit to be accommodated into its own. If Subcontractor shall be delayed in the commencement, prosecution, or completion of the Work or shall be obstructed or hindered in the orderly progress of the Work by an act, failure to act, omission, neglect or default of Stock, any architect, another contractor or subcontractor, or any of their respective agents or employees, or by any cause beyond the control of Subcontractor, then the time fixed for completion of the Work may be extended in the sole discretion of Stock and only if Subcontractor notifies Stock in writing within forty-eight (48) hours of the discovery of the cause of such delay. Subcontractor expressly agrees not to make, and hereby waives, any claim for damages on account of any delay, obstruction, or hindrance for any cause whatsoever, including but not limited to, the aforesaid causes, and agrees that Subcontractor's sole right and remedy in the case of any delay shall be an extension of the time fixed for completion of the Work.

6. **PROSECUTION OF WORK:** Subcontractor shall cooperate with all other contractors engaged by Stock to the effect that their work shall not be impeded and shall give such other contractors access to the job site necessary to perform their contracts. Subcontractor shall perform the Work in a prompt and diligent manner whenever such Work, or any part of it, becomes available, or at such other time or times as Stock may direct so as to promote the progress of the entire Project. Subcontractor shall not delay or otherwise interfere with or hinder the work of any other contractor on the job. If the work or property of another is hindered, delayed, or damaged by Subcontractor, Subcontractor will pay for all costs and damages incurred by such other party and will cause all such damage to be corrected to the satisfaction of and without cost to Stock. Any materials that are to be furnished by Subcontractor hereunder shall be furnished in sufficient time to enable Subcontractor to perform and complete its Work with the time or times provided for herein or in any Work Notification Form. If, in the opinion of Stock, in its sole discretion, Subcontractor falls behind in furnishing the necessary labor and/or materials to meet the schedule established by Stock, then Subcontractor shall take such steps and actions as are deemed necessary by Stock to improve the rate of progress, including, but not limited to, increasing the labor force, number of shifts and/or work such overtime as may be required, at its own expense, to bring its part of the Work up to the schedule established by Stock. Subcontractor agrees to reimburse or pay Stock, or Stock may withhold payment otherwise due under this Agreement, for any and all damages that Stock may sustain as a result of such delays by Subcontractor. Time is of the essence in this Agreement.

Subcontractor shall perform all labor in a thorough and workmanlike manner, according to the highest standards of the trade. Subcontractor warrants that all labor done and any materials furnished by Subcontractor will meet or exceed FHLA minimum property standards, VA requirements, any applicable building code requirements and all Stock requirements. Should a dispute arise as to the proper interpretation of this Agreement, or any work or material performed or furnished hereunder, which concerns the parties hereto only, or which concerns Subcontractor and any other contractor(s), subcontractor(s) or supplier(s), the dispute shall be decided by Stock, whose decision thereon shall be final and conclusive. In any event, and in spite of any dispute, claim, or controversy arising out of this Agreement, Subcontractor shall proceed diligently with the Work, pending final determination pursuant to any disputes clause or pursuant to any other action taken with respect to any dispute, claim, or controversy.

7 **MATERIALS and EQUIPMENT:** Subcontractor shall secure and maintain material ordered by Subcontractor until completion of the Work and satisfaction acceptance by Stock. Subcontractor shall be responsible for the receipt, delivery, unloading, holding storage, warehousing, protection, insurance and all other risks of loss relating to any materials or equipment. Subcontractor is to furnish, install, provide, or have provided to it under this Agreement. Subcontractor shall keep adequate supply of materials on hand at all times, as required to meet production schedules. Subcontractor shall be responsible for the security of all materials on the jobsite. Further, if the Work requires the installation of materials furnished by others, it shall be the responsibility of the Subcontractor to examine the items so provided, and to thereupon handle, store, and install the items with such skill and care to ensure a satisfactory and proper installation. Loss or damage to the materials due to acts of negligence by the Subcontractor shall be deducted from any amounts due or to become due to the Subcontractor.

8 **SUBCONTRACTOR REPRESENTATIONS:** Subcontractor represents and warrants that it is fully qualified in all respects to perform the Work and shall at all times maintain strict discipline among its employees. Subcontractor shall supervise and direct the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with the Contract Documents. Subcontractor shall be responsible to see that the finished Work complies accurately with the Contract Documents. Subcontractor agrees not to employ any person unfit or without sufficient skill to perform the job for which Subcontractor was retained for the Project. Subcontractor agrees that Stock shall not provide training of any kind. Accordingly, it is the sole responsibility and expense of Subcontractor to provide training for the Subcontractor or its employees, agents, or subcontractors.

Subcontractor shall not discriminate against any employee or applicant for employment because of race, creed, color, sex, age or national origin. Subcontractor shall comply with all equal opportunity or affirmative action requirements or plans as may be set forth in the Contract Documents.

Subcontractor shall at all times remain an independent contractor, solely responsible for the Work, methods, techniques, procedures and supervision and coordinating all portions of the Work to be performed under this Agreement and Field Guidelines. No provision hereof shall be construed to make Subcontractor Stock's agent. All person employed by Subcontractor, or Subcontractor's sub-contractors to perform services in connection with this Agreement shall be under the exclusive control and direction of Subcontractor or Subcontractor's subcontractors, it being the intention of the parties that Subcontractor and its subcontractors shall be and remain an independent contractor. Stock shall not exert actual control, nor possess the right to control, the actions of the employees of Subcontractor or Subcontractor's subcontractors in performing duties under this Agreement.

Subcontractor shall fully protect the Work from loss or damage and shall bear the cost of any such loss or damage until final payment has been made. If Subcontractor or any one for whom Subcontractor is legally liable for is responsible for any loss or damage to the Work, or other work or materials of Stock or Stock's separate contractors, Subcontractor shall be charged with the same, and any monies necessary to replace such loss or damage shall be deducted from any amounts due Subcontractor.

Subcontractor shall not load nor permit any part of any structure or property to be loaded in any manner that will endanger that structure or property, nor shall Subcontractor subject any part of the Work or adjacent property to stresses or pressures that will endanger it.

9 **LICENSES and PERMITS:** Subcontractor shall, at Subcontractor's sole expense, hold and maintain all required licenses, obtain all required permits and shall comply with all laws and ordinances and the rules, regulations, and orders of all public authorities relating to the performance of the Work. In the event of termination of this Agreement, Subcontractor shall immediately transfer and assign to Stock any and all applicable certificates, permits, contracts, subcontracts, and purchase orders relating to the Work. Subcontractor agrees that Stock is not responsible for providing any tools or benefits for the Subcontractor or its employees, agents, or subcontractors.

10. **REGULATORY COMPLIANCE and HAZARDOUS SUBSTANCES:** The Occupational Safety and Health Act of 1970, as amended (OSHA) has established regulations entitled OSHA Hazard Communication Standard. According to the regulations, manufacturers of hazardous materials are required to furnish Material Safety Data Sheets (MSDS) giving information on proper handling and precautionary measures in using the materials. Many substances commonly used in residential construction fit the description of hazardous materials established by OSHA. Subcontractor shall comply with all OSHA regulations pertaining to the work and any materials used in the work. Subcontractor shall have sole and exclusive responsibility for training its employees, subcontractors and suppliers in the proper handling of hazardous materials and any precautionary measures required. Subcontractor shall supply all protective clothing and devices necessary to protect its employees, subcontractors and suppliers from hazardous materials while on the site. Subcontractor shall obtain all MSDS's pertaining to any hazardous material used or created in the process of performing the work, and shall distribute copies of such MSDS's to Company and to all other contractors, subcontractors, and suppliers performing work on the site. Subcontractor shall also obtain from all other contractors, subcontractors and suppliers performing work on the site, copies of all MSDS's for all hazardous materials used or created by such contractors, subcontractors or suppliers, and shall retain copies of such MSDS's and provide them to Subcontractor's employees, subcontractors and suppliers as required by the OSHA regulations. In other words, Subcontractor must exchange MSDS's with all other contractors, subcontractors and suppliers, and implement a training program for its employees.

Subcontractor acknowledges and understands that the Project may be subject to the requirements of the National Pollutant Discharge Elimination System, as amended (NPDES) and Clean Water Act, as amended (CWA). Subcontractor is fully aware of the NPDES and CWA and shall not in any way interfere, damage or in any way negatively impact the structures and/or procedures in place or to be implemented at the Project pertaining to NPDES and CWA. Subcontractor shall be responsible for any loss, damage, fine and penalty incurred by Stock or its affiliates due to acts of negligence by the Subcontractor and such costs and expenses shall be deducted from any amounts due or to become due to the Subcontractor. Further, Subcontractor shall indemnify Stock for any and all costs, fines, penalties and expenses incurred by Stock as a result of violations of NPDES and CWA caused by Subcontractor.

11. **EMERGENCIES:** In the event of an emergency affecting the safety or protection of persons or the Work or property at the job site or adjacent thereto, Subcontractor, without special instruction or authorization from Stock is obligated to act to prevent threatened damage, injury or loss. Subcontractor shall give Stock written notice within twenty-four (24) hours after the occurrence of the emergency. If Subcontractor believes that any significant changes in the Work or variations from the Contract Documents have been caused thereby. If the Stock determines that a change in the Contract Documents is required because of the action taken in response to an emergency, a Change Order shall be issued to document the consequences of the changes or variations. If Subcontractor fails to provide the twenty-four (24) hour written notice noted above, the Subcontractor shall be deemed to have waived any right it otherwise may have had to seek an adjustment Pricing or an extension to the term of this Agreement.
12. **ASSUMPTION OF LIABILITY:** Subcontractor agrees to, and hereby does, assume full responsibility for any and all acts, negligence or omissions of Subcontractor's employees, laborers, agents, materialmen, and subcontractors and any and all employees and agents of the aforementioned, and any and all other persons doing work under an oral or written order or contract with Subcontractor.
13. **INDEMNIFICATION, HOLD HARMLESS & DEFENSE:** The Work performed by the Subcontractor shall be at the risk of the Subcontractor exclusively. To the fullest extent permitted by law, at Subcontractor's sole expense, Subcontractor shall indemnify, defend and hold harmless both Stock and the Owner (if different from Stock) and their affiliated companies, parents, subsidiaries, partners, joint ventures, representatives, members, designees, officers, directors, shareholders, employees, agents, successors, and assigns (collectively referred to as "Indemnified Party/ies") of, from, and against any and all claims concerning, pertaining to, related to, arising out of and/or connected with the Work and Contract Documents, including but not limited to demands, suits, liabilities, causes of action, damages, claims for bodily injury, death or damage to property, judgments, contractual liabilities, including costs and expenses associated thereto which include but is not limited investigative and repair costs, attorneys' fees and costs, consultants' fees and costs, and other expenses, any of which arise out of, relate to, result from, are occasioned by, contributed to by, connected with and/or are in any way caused, in whole or in part, by the acts of, omissions, failures and/or performance by Subcontractor and/or any of its subcontractors, laborers, materialmen, agents, or employees, or anyone for whose acts any of them may be liable, as to any of the following (collectively referred to as "Claims"):
- (a) Work as required by the Contract Documents and under this Agreement;
  - (b) construction or others services as required by the Contract Documents and under this Agreement;
  - (c) materials furnished as required by the Contract Documents and under this Agreement;
  - (d) violations or alleged violations of Occupational Safety and Health Act of 1970, as amended, or to regulations promulgated thereunder, and/or to violations or alleged violations similar state laws and regulations;



- (e) injuries to and/or destruction of tangible property, including the loss of use or economic loss resulting therefrom;
- (f) defectively performed and/or alleged defectively performed Work by Subcontractor and/or any of its subcontractors, laborers, materialmen, agents, or employees, or anyone for whose acts any of them may be liable;
- (g) breach of this Agreement; and/or
- (h) acts or omissions which include negligent or willful misconduct of Subcontractor and/or any of its subcontractors, laborers, materialmen, agents, or employees, or anyone for whose acts any of them may be liable, whether active or passive.

In Whole or in Part: Subcontractor's obligation to indemnify, defend and hold harmless the Indemnified Parties, shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist to any party or person described in this Paragraph 13.

Subcontractor's obligation to indemnify, defend and hold harmless the Indemnified Parties is applicable whether any Claims are caused in part by any of the Indemnified Parties, whether active or passive.

Subcontractor's obligation to indemnify, defend and hold harmless the Indemnified Parties is applicable whether any Claims are caused in part by the concurrent act(s), omission(s) by and/or negligence of any of the Indemnified Parties, whether active or passive, provided however, said Indemnified Party shall not be indemnified for its own sole negligence or willful misconduct.

Limitations on Obligations & Florida Statutes, Section 725.06: With regard to any and all Claims, Subcontractor's obligation to indemnify, defend and hold harmless the Indemnified Parties shall not be limited in any way by any limitation on the amount or type of damages, compensation, insurance requirements and limits set forth in Exhibit "A", or benefits payable by/for Subcontractor or any subcontractor under workers' or workmen's compensation acts, disability acts or other employee benefits acts. Notwithstanding the foregoing, Subcontractor's obligation to indemnify, defend and hold harmless the Indemnified Parties shall be limited to the greater of:

- (a) A maximum of \$5,000,000.00; or
- (b) the amount of this Agreement sum; or
- (c) the maximum amount of insurance coverage limits available to the Subcontractor under any and all policies of insurance and applicable to any Claim(s).

The parties agree and acknowledge that this limitation bears a reasonable commercial relationship to this Agreement and the services being provided hereunder, and this indemnity clause is intended to comply with the Florida laws on indemnity and specifically to comply with Florida Statutes, Section 725.06, including any amendments thereto, and is to be interpreted in such a way as to be fully enforceable. If any word, clause or provision of this Paragraph 13 is determined not to be in compliance with Florida Statutes, Section 725.06, including any amendments thereto, it shall be ineffective and the remaining words, clauses and provisions shall remain in full force and effect.

Duty to Defend: Subcontractor's duty to defend under this Paragraph 13 is independent and separate from its duty to indemnify and hold harmless, and the duty to defend exists regardless of any ultimate liability of Stock and/or any Indemnified Party. The duty to defend arises immediately upon presentation of a Claim by any person or entity with written notice of such Claim being provided to Subcontractor.

Survival Provision: Subcontractor's obligation to indemnify, defend and hold harmless will survive the expiration or earlier termination of this Agreement until it is determined by final judgment that an action against the Indemnified Party/ies for any and all matters indemnified is fully and finally barred by the applicable statute of limitations.

Waiver of Subrogation: Subcontractor waives any rights of subrogation against Stock and shall require any of Subcontractor's subcontractors, laborers, materialmen, agents, or employees, and anyone for whose acts any of them may be liable to waive their subrogation rights against Stock.

Secure Performance: At its sole discretion, Stock may withhold, from time to time, from any monies otherwise due Subcontractor hereunder or under any other contract or agreements, a sum of money, which, in the sole judgment of Stock, shall be sufficient to secure the performance of Subcontractor's obligations under this Paragraph 13.

Notice: Stock shall provide written notice of any Claims within sixty (60) days after Stock becomes reasonably aware that Subcontractor may be liable for any such Claims.

14. SUBCONTRACTOR WARRANTIES: Subcontractor represents and warrants to Stock that all equipment and materials provided by Subcontractor and incorporated in the Work will be new, unless otherwise specified in the Plans and Specifications, and together with the Subcontractor's Work shall be of good quality, free of defects and in conformity with the Contract Documents. It is understood between the parties hereto that all equipment, materials and Work not so in conformity shall be defective. Subcontractor specifically agrees that it is responsible for the protection of the Work until final completion and that Subcontractor will make good or replace, at no expense to Stock, any damage to the Work which occurs prior to said final completion. Inspection by Stock shall not relieve Subcontractor of its obligations herein. **SUBCONTRACTOR FURTHER WARRANTS THAT ALL LABOR AND MATERIALS FURNISHED BY**

SUBCONTRACTOR SHALL BE FREE OF DEFECTS FOR A PERIOD BEGINNING AT THE DATE THAT STOCK CONVEYS TITLE OF THE SUBJECT OF THE WORK, (HOUSE OR CONDOMINIUM UNIT) TO A PURCHASER OF THE HOUSE OR CONDOMINIUM UNIT, AND CONTINUING FROM SUCH DATE UNTIL THE LAST OF THE FOLLOWING TO OCCUR: (1) ONE YEAR; (2) FOR THE DURATION OF ANY LIMITED WRITTEN WARRANTY GIVEN BY STOCK TO SUCH PURCHASER OR (3) THE DURATION OF ANY COMMON LAW OR STATE OR FEDERAL STATUTORY WARRANTIES OF SUCH PURCHASER, OR SUBSEQUENT PURCHASER, OR ANY OTHER PERSON OR ENTITY, IF ANY SUBCONTRACTOR AGREES TO MAKE, AT SUBCONTRACTOR'S SOLE EXPENSE, ALL REPAIRS AND CORRECT SUCH DEFECTS IN ORDER TO MEET ANY OF SUBCONTRACTOR'S WARRANTY OBLIGATIONS WITHIN EIGHT (8) HOURS OF NOTICE (ORAL OR WRITTEN) OF SUCH DEFECT IN AN EMERGENCY (DETERMINED BY STOCK IN ITS SOLE DISCRETION) AND WITHIN FORTY-EIGHT (48) HOURS OF NOTICE ON A NON-EMERGENCY BASIS. In addition, Subcontractor shall transfer any and all applicable manufacturer's warranties, together with all service and operating manuals for materials furnished by it under this Agreement, to Stock when the Work is completed or this Agreement is terminated, whichever Occurs first. The warranty contained in this paragraph 14 is in addition to any other special warranties required by contract or law, and such warranty does not negate or abridge Stock's right to assert claims for latent or patent defects in accordance with applicable law.

The Subcontractor agrees to satisfy such warranty obligations which appear within the warranty or guarantee periods established in the Contract Documents without cost to the Owner or the Contractor. If no guarantee of warranty is required of the Contractor in the Contract Documents, then the Subcontractor shall guarantee or warranty the Subcontractor Work for the period of one (1) year from the date(s) of conveyance to the end user.

The Subcontractor further agrees to execute any special guarantees or warranties that shall be required for the Subcontractor's Work prior to final payment.

All guarantees and warranties must be submitted to the Contractor in a form acceptable to the Contractor prior to and as a condition for final payment.

Subcontractor expressly agrees that all warranties made by it in this Agreement shall survive the termination or expiration of this Agreement for any reason prior to the expiration of the full warranty period.

15. **RUBBISH and DEBRIS:** Subcontractor agrees to keep the job site and adjoining property free of waste material and rubbish caused by its Work or that of its subcontractors and to remove all waste materials and rubbish on completion or termination of its Work together with all tools, equipment, and machinery. Subcontractor agrees that upon terminating its Work at the site, Subcontractor shall conduct general clean-up operations, including, but not limited to, the cleaning of glass surfaces, paved streets and walks, steps and interior floors and walls, where applicable. Any personal property left by Subcontractor on or around job site for thirty (30) days following completion of the Work, excluding any Work performed pursuant to warranty service obligations, will become the property of Stock.
16. **ASSIGNMENT:** Subcontractor shall not assign this Agreement or any payments due or to become due hereunder without the prior written consent of Stock, which consent may be withheld in the sole discretion of Stock. Payments to Subcontractor will be made in accordance with Stock's current published payment procedures, as the same may be amended from time to time. Payment to Subcontractor of all or any portion of any progress payment or the final payment shall not constitute or imply or be evidence of performance of the Work by Subcontractor or acceptance of any portion of Subcontractor's Work by Stock, or in any way waive or affect Stock's claims or rights against Subcontractor.
17. **CHANGES:** Stock reserves the right to make changes in the Work in the nature of additions, deletions, or modifications, without invalidating this Agreement and agrees to make corresponding adjustments in the contract price and time for performance. All changes will be authorized by a new written Work Notification Form which will include conforming changes in any Bid/Proposal, payment schedule and/or time for performance.
18. **INSURANCE REQUIREMENTS:** Subcontractor shall procure and maintain insurance policies in the form and amounts as set forth on Exhibit "A", attached hereto and incorporated herein by reference. All coverage shall be placed with an insurance carriers duly admitted in the State of Florida and shall be reasonably acceptable to Stock. All insurance carriers must maintain an A.M. Best rating of "A-VIII" or better. Certified copies of all insurance policies must be made available and provided to Stock within ten (10) days of Stock's request. The word "Claims" used in this Paragraph 18 has been defined in Paragraph 13 above.

Endorsements in Insurance Policies: In addition to Exhibit "A", the Subcontractor shall carry and maintain commercial general liability insurance on ISO form CG 00 01 10 01 (or a substitute form providing coverage equal to or greater than said form). All policies of liability insurance shall contain an Additional Insured Endorsement on ISO form CG 20 10 11 85 (or a substitute form providing coverage equal to

or greater than said form which would at a minimum additional insured status with respect arising out of Subcontractor's Work pursuant to the Contract Documents and which provides coverage both during the products completed operations hazard period) Such insurance shall cover liability arising out of premises, operations, independent contractors, products-completed operations, personal and advertising injury, bodily injury, property damage, and liability assumed under an insured contract (including the tort liability of another assumed in a business contract) There shall be no endorsement or modification of the commercial general liability, excess or umbrella coverage forms which contains any of the following:

- (a) Limitations or Modification of Contractual Liability Language;
- (b) Limitations or exclusions for Damage to Work Performed by Sub Contractors;
- (c) Limitations or Exclusions for Residential Work;
- (d) Limitations or Exclusions for Multi-Unit Dwellings
- (e) Limitations or Exclusions related to explosion, collapse, underground property damage;
- (f) Pollution Exclusions; or
- (g) work performed by subcontractors.

**Additional Insured:** Stock shall be named as an additional insured, loss payee and certificate holder on each of the policies as outlined in Exhibit "A" Coverage under all policies shall be afforded to the additional insureds whether or not any Claims are actually in litigation

Stock shall remain as an additional insured on each policy for a period not less than ten (10) consecutive years from the date of final completion of the entire construction project that is the subject of this Agreement and the Contract Documents regardless of the date when the Subcontractor, Subcontractor's subcontractors, laborers, materialmen, agents, employees, and/or anyone for whose acts any of them may be liable, completes or finishes any Work or any other construction work, and/or regardless of the dates any certificates of occupancy are issued Subcontractor's obligation to have Stock remain as an additional insured on each policy for a period not less than ten (10) consecutive years from the date of final completion of the entire construction project will survive the expiration or earlier termination of this Agreement until any and all Claims are fully and finally barred by the greater of any and all applicable statute of limitation or statute of repose

**Priority of Insurance Coverage:** It is the intent of the parties that all available and applicable insurance coverage of the Subcontractor, whether primary or excess or umbrella policies, be primary coverage for any and all Claims concerning, pertaining to, related to, arising out of and/or connected with the Work and Contract Documents, regardless of who makes said Claims. Further, the parties intend that Stock's insurance policies be excess over any and all available and applicable insurance policies of Subcontractor for the purposes of indemnity and defense of Stock

**Certificates of Insurance:** Prior to commencing any Work under this Agreement, Subcontractor shall submit to Stock copies of policies or Certificate of Insurance that confirm appropriate insurance coverage

Each Certificate of Insurance shall provide that the insurer must give Stock at least ninety (90) days prior written notice of non-renewal or material change in coverage and termination of the coverage thereunder Not less than two (2) weeks prior to the expiration, cancellation or termination of any such policy, the Subcontractor shall supply Stock with a new and replacement Certificate of Insurance and additional insured endorsements as proof of renewal/replacement policies of insurance.

**Subcontractor's Notice to Insurance Carriers and Agents:** Prior to commencing any Work under this Agreement, Subcontractor must provide a fully executed complete copy of this Agreement with Exhibit "A" and all amendments to each of its insurance agents and insurance carriers Within ten (10) days after execution by the parties of any future amendments, modifications, additions, deletions, changes or addendums to this Agreement, Subcontractor must provide a fully executed complete copy of this Agreement with Exhibit "A", as amended, to each of its insurance agents and insurance carriers.

**Subcontractor's Subcontractors:** Subcontractor acknowledges it shall not subcontract any part of this Agreement without supplying Stock proof that all Subcontractor's subcontractors, laborers, materialmen, agents, or employees, and anyone for whose acts any of them may be liable, obtains and maintains appropriate insurance coverage as detailed in Exhibit "A". It shall be Subcontractor's sole responsibility to ensure that Subcontractor's subcontractors, laborers, materialmen, agents, or employees, and anyone for whose acts any of them may be liable, fully complies with this Paragraph 18 and Exhibit "A", and future amendments thereto

Additionally, and prior to commencement of the Work, the Subcontractor shall provide Stock with a Certificate of Insurance showing insurance coverage, in compliance with Exhibit "A" each and every Subcontractor's subcontractors, laborers, materialmen, agents, and/or employees, and anyone for whose acts any of them may be liable. Coverage shall be no less than the limits as described in Exhibit "A". In the event any of these policies are terminated, for any reason, the Subcontractor shall provide Stock copies of Certificates of Insurance showing replacement coverage in compliance with Exhibit "A".

Waiver of Subrogation from Insurers: Subcontractor shall obtain from each of its insurers, a waiver of subrogation as to each of its insurance policies, in favor of Stock with respect to any Claims concerning, pertaining to, related to, arising out of and/or connected with the Work and Contract Documents.

Breach: Failure of Subcontractor to maintain complete and appropriate insurance is a material breach. In this event, in addition to the all other remedy provisions in this Agreement, Stock can elect to terminate this Agreement or to provide insurance at Subcontractor's sole expense; in neither case, however, shall Subcontractor's liability be lessened.

- 19 COMPLETION: Immediately upon the performance of any part of the Work, as between Subcontractor and Stock, title thereto shall vest in Stock to the extent permitted by law; provided, however, the vesting of such title shall not impose any obligations on Stock or relieve Subcontractor of any of its obligations hereunder. Upon completion of the Work described in any Work Notification Form, Subcontractor shall request the Stock representative on the job site to confirm completion of the Work. Thereafter, provided that Subcontractor is not in breach of this Agreement, and provided that Subcontractor is otherwise entitled to payment under this Agreement, upon notification to Stock, Stock shall pay Subcontractor for the Work described in the Work Notification Form in accordance with the Work Notification Form and the Bid/Proposal within sixty (60) days following Stock's receipt of a request for payment from Subcontractor. Subcontractor hereby agrees that if Subcontractor fails to request from Stock any sum, including, but not limited to, wages or contract sums due under this Agreement or any Work Notification Form, within ninety (90) days from the date they became due, said sums to Subcontractor and Subcontractor shall have no claim thereon.
- 20 WAIVER: TO THE EXTENT NOT PROHIBITED BY LAW, CONTRACTOR HEREBY WAIVES AND RELINQUISHES ANY AND ALL STATUTORY OR CONTRACTUAL RIGHTS THAT IT MAY HAVE TO OBTAIN STOP NOTICES OR LIENS, MECHANICS' OR OTHERWISE, AGAINST THE PROPERTY OR IMPROVEMENTS THAT ARE THE WORK AND AGREES NOT TO FILE ANY SUCH NOTICE OR LIEN AGAINST SUCH PROPERTY OR IMPROVEMENTS FOR ANY LABOR, SERVICES, WORK, MATERIALS, EQUIPMENT, TOOLS OR OTHER ITEMS FURNISHED TO OR FOR STOCK. TO THE EXTENT NOT PROHIBITED BY LAW, CONTRACTOR AGREES TO LOOK SOLELY TO ITS CONTRACTUAL RIGHTS FOR RECOVERY.
- 21 TAXES/CHARGES: Subcontractor shall pay all taxes, contributions and/or premiums payable on its employees or on its operations under workers' compensation laws, unemployment compensation laws, the Federal Social Security Act, health and welfare benefit plans, gross business taxes, sales and use taxes, contributions and/or premiums which are payable by the employees and the Subcontractor shall indemnify, defend and hold Stock harmless from all liability, loss and expense resulting from Subcontractor's failure to comply with these requirements. Subcontractor shall comply with all rules and regulations at any time applicable hereto and shall, on demand, substantiate to Stock's reasonable satisfaction that all taxes and charges are being properly paid. **SUBCONTRACTOR SHALL BE SOLELY RESPONSIBLE FOR WITHHOLDING TAXES, SOCIAL SECURITY TAXES AND STATE UNEMPLOYMENT TAXES FOR ALL EMPLOYEES OF SUBCONTRACTOR.**
- 22 DEFECTIVE WORK: Should Stock notify Subcontractor (orally or in writing) that any part of the Work is incorrect and does not conform to the terms of the Contract Documents, Subcontractor shall immediately begin to correct such defective work and shall complete such corrected work within forty-eight (48) hours unless Stock shall agree to a longer period. If Subcontractor refuses to perform any corrective work, Subcontractor shall waive the above described forty-eight (48) hour period and such refusal or failure to perform the corrective work shall be deemed a default by Subcontractor hereunder. Subcontractor shall bear the entire cost of such corrective work, including any cost incurred by the disturbance of work completed by other contractors.
- 23 BREACH: SUBCONTRACTOR SHALL BE IN BREACH OF THIS AGREEMENT IF:
- (a) Subcontractor's Work is defective and not remedied as provided herein; or
  - (b) Subcontractor does not make prompt and proper payments to its employees, agents and/or subcontractors; or
  - (c) Subcontractor does not make prompt and proper payments for labor, services, work, materials or equipment furnished by third parties to it; or
  - (d) Another contractor is damaged by an act for which Subcontractor is responsible; or

- (e) Subcontractor or any third party furnishing labor, services, work, materials, equipment, tools or other items for the Work files any claim or lien against the property where the Work has been performed and such claim or lien has not been discharged or resolved within twenty-four (24) hours after notice thereof to Subcontractor, and Subcontractor has not posted a discharge bond within this twenty four (24) hour period; or;
- (f) Subcontractor fails to perform warranty service under this Agreement or any other prior or contemporaneous Subcontractor Agreement with Stock; or
- (g) Stock is fined by any governmental agency on account of or arising out of Subcontractor's (or Subcontractor's subcontractors or agents) violation of any law, ordinance, regulation, administrative ruling and/or court order; or
- (h) Subcontractor becomes insolvent or any petition for bankruptcy is filed with respect to Subcontractor; or
- (i) Subcontractor fails or neglects to prosecute the Work diligently and promptly, whether due to inadequate or incompetent supervision, insufficient skilled workers, lack of material or equipment, improper quantity or quality, or for any other reason not described herein;
- (j) Subcontractor fails to comply with any terms of this Agreement or any Work Notification Form issued under this Agreement.

24 **REMEDIES:** IF SUBCONTRACTOR IS IN BREACH OF THIS AGREEMENT, IN ADDITION TO ANY AND ALL OTHER REMEDIES AVAILABLE UNDER APPLICABLE LAW, STOCK, IN ITS SOLE DISCRETION, MAY DO ANY OR ALL OF THE FOLLOWING:

(A) IMMEDIATELY TERMINATE THIS AGREEMENT, ANY WORK NOTIFICATION FORM OR OTHER VERBAL OR WRITTEN AGREEMENT WITH SUBCONTRACTOR OR OTHER SUBCONTRACTOR BASE AGREEMENT BETWEEN SUBCONTRACTOR AND STOCK AND DISMISS SUBCONTRACTOR FROM THE JOB SITE BY PROVIDING SUBCONTRACTOR WITH WRITTEN NOTICE OF SUCH TERMINATION;

(B) ENGAGE OR EMPLOY OTHER CONTRACTORS TO REMEDY SUBCONTRACTOR'S DEFECTIVE WORK, TO COMPLETE ANY PORTION OF THE WORK NOT COMPLETED BY SUBCONTRACTOR, PERFORM SUBCONTRACTOR'S WARRANTY SERVICE OBLIGATIONS OR OTHERWISE CURE SUBCONTRACTOR'S BREACH AT SUBCONTRACTOR'S SOLE COST AND EXPENSE;

(C) WITHHOLD FROM SUBCONTRACTOR FOR UP TO ONE HUNDRED TWENTY (120) DAYS ANY SUMS WHICH MIGHT BE DUE OR BECOME DUE TO SUBCONTRACTOR, WHETHER UNDER THIS AGREEMENT, ANY WORK NOTIFICATION FORM OR ANY OTHER AGREEMENT, AND MAY CHARGE AGAINST ANY SUCH SUMS WITHHELD ALL SUMS EXPENDED OR COSTS INCURRED BY STOCK ARISING FROM THE ENGAGEMENT OF OTHER CONTRACTORS AS PROVIDED IN (B) ABOVE OR OTHERWISE RELATING TO SUBCONTRACTOR'S BREACH, INCLUDING, BUT NOT LIMITED TO, STOCK'S OVERHEAD AND PROFIT; AND/OR

(D) WITHHOLD FROM SUBCONTRACTOR FOR UP TO ONE (1) YEAR AN AMOUNT, WHICH AMOUNT SHALL NOT EXCEED FIVE PERCENT (5%) OF THE CONTRACT PRICE FOR THE WORK, TO INSURE SUBCONTRACTOR'S PERFORMANCE OF WARRANTY SERVICE OBLIGATIONS. SHOULD SUBCONTRACTOR FAIL TO PERFORM SUCH WARRANTY SERVICE OBLIGATIONS, STOCK MAY CHARGE AGAINST SUCH AMOUNT WITHHELD ALL SUMS EXPENDED OR COSTS INCURRED BY STOCK ARISING FROM SUBCONTRACTOR'S FAILURE TO PERFORM SUCH WARRANTY SERVICE OBLIGATIONS

25 **TERMINATION:** This Agreement may also be terminated and Subcontractor dismissed from the job site by Stock at any time in its sole discretion, with or without cause, by providing Subcontractor with notice (written or oral, in the sole determination of Stock) of such termination, and such termination shall be effective as of the time and date stated in such notice. In the event of termination of the Agreement pursuant to this paragraph 25 without cause, Stock shall pay Subcontractor within sixty (60) days after the effective date of such termination, all sums due and owing Subcontractor for all labor incurred and all materials incorporated in the Work performed under this Agreement prior to the effective date and time of termination. Subcontractor acknowledges and agrees that if Subcontractor is terminated pursuant to this paragraph 25 with cause, Subcontractor shall have no claim against Stock for any additional sums, including, without limitations any claims for material purchased but not used in the Work, or for lost profits or for any other claim or sums whatsoever. The termination payment described herein, if applicable, is Subcontractor's sole remedy and in no event shall Subcontractor have any claim for consequential damages. Further, in the event of termination, Subcontractor will turn over all equipment and materials ordered, purchased for and delivered to the Project, and Stock will pay the Subcontractor any amounts due based on the percentage of completion of Subcontractor's Work that is in compliance with this Agreement and the Pricing, actually accomplished and equipment and materials supplied to the Project; excluding any payment for unearned profit and overhead. Subcontractor will facilitate transfer of Work to Stock by assigning its rights under subcontracts and purchase orders.

26. **ENTIRE AGREEMENT:** This Agreement, together with the Contract Documents, constitutes the entire agreement between Subcontractor and Stock and there are no other agreements, oral or written, by and between the parties hereto, except as to Subcontractor's warranties under any prior or contemporaneous Subcontractor Agreements with Stock, which warranties are incorporated by reference herein for all purposes. This Agreement, together with the Contract Documents, does not create a partnership or other unincorporated association between the Subcontractor and Stock. The relationship of Subcontractor is that of an independent contractor.
27. **HEADINGS:** The paragraph headings in this Agreement are for convenience only and shall not affect the meaning, interpretation or scope of the provisions which follow them.
28. **NOTICES:** Unless otherwise set forth herein, any notice to be given or served upon any party hereto in connection with this Agreement must be in writing, and shall be (a) delivered by hand, (b) sent by Federal Express, Express Mail or other overnight courier service, sent to the address on the first page hereof or such other address for notice as the parties shall last have furnished in writing to the person giving the notice or (c) sent by facsimile transmission with a copy delivered pursuant to (a) or (b) above. Any such notice or demand shall be deemed to have been duly given or made and to have become effective (i) if delivered by hand to a responsible officer of the party to which it is directed, at the time of the receipt thereof by such officer, (ii) if sent by facsimile transmission as of the date and time of transmission, and (iii) if sent by Federal Express, Express Mail or other reputable overnight courier service, upon the earlier of the date of receipt or one (1) business day after posting thereof. If a notice is mailed in the manner provided above, it is duly given, whether or not the addressee received it.
29. **INVALIDITY:** If any provision of this Agreement is held to be illegal, invalid or unenforceable under present or future laws, such provision shall be fully severable. This Agreement shall be construed enforced as if such illegal, invalid or unenforceable provision had never comprised a part of this Agreement, and the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by the illegal, invalid or unenforceable provision or by its severance from this Agreement. Furthermore, there shall be added automatically as if part of this Agreement a provision as similar in terms to such illegal, invalid or unenforceable provision as may be possible and may be legal, valid and enforceable.
30. **DISPUTE:** If a controversy or claim arises out of or related to this Agreement, including a claim relating to an action taken by Stock pursuant to the self-help remedies of paragraph 24, and the parties cannot resolve the matter between themselves within sixty (60) days after Stock is first provided written notice of the claim or controversy by Subcontractor, the parties agree to try in good faith to settle the dispute by mediation under the Construction Industry Mediation Rules of the American Arbitration Association. If not settled by mediation, the dispute shall be resolved by final and binding arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association, and judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. Should a dispute arise between Stock and a buyer of a residence regarding materials supplied or work performed by Subcontractor, Subcontractor agrees to participate in, and be bound by, arbitration proceedings between Stock and the buyer.
31. **JURISDICTION and PRESUMPTION:** This Agreement shall be governed by and construed under the laws of the State of Florida. Any action brought to enforce or interpret this Agreement shall be brought in the court of appropriate jurisdiction in the county in which the property is located. Should any provision of this Agreement require judicial interpretation, the parties hereto agree and stipulate that the court interpreting or considering the same shall not apply the presumption that the terms hereof shall be more strictly construed against a party by reason of any legal conclusion that a document should be construed more strictly against the party who itself or through its agents prepared the same, or being agreed that all parties hereto have participated in the preparation and negotiation of this Agreement and each party had full opportunity to consult legal counsel of its choice prior to the execution of this Agreement.
32. **WAIVER:** Except as expressly set forth herein, this Agreement may not be changed, modified or terminated, except by an instrument executed by the parties hereto. No waiver by either party of any failure or refusal to comply with the obligation of any other party hereunder shall be deemed a waiver of any other or subsequent failure or refusal to so comply.
33. **COUNTERPARTS and FACSIMILE/PDF SIGNATURES:** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which shall constitute one and the same agreement. Signatures given via facsimile or scan PDF transmission and shall be deemed given as of the date and time of transmission to the other party and shall be deemed original.
34. **PERSONS BOUND:** The provisions of this Agreement shall inure to the benefit of, and shall bind, the heirs, executors, administrators, successors and assigns of the respective parties. No person shall be deemed to be a third party beneficiary of this Agreement or any portion thereof. Subcontractor may not assign this Agreement without Stock's prior written consent, which consent Stock may withhold in its sole

and absolute discretion Stock may assign this Agreement to any affiliate, subsidiary or other third party by providing Subcontractor five (5) days written notice thereof.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

**STOCK:**

STOCK CONSTRUCTION, LLC, a  
Florida limited liability company

By: [Signature]  
Print Name: BOB JAMES  
Title: President

**SUBCONTRACTOR:**

CARPENTER CONTRACTORS OF AMERICA, INC.  
(Subcontractor Entity Name)

By: [Signature]  
Print Name: RAYCOAT  
Title: Gen. Mgr. S.C.F.

# **EXHIBIT 2**





2647 Professional Circle • Suite 1201 • Naples, FL 34119

### Subcontractor Base Agreement

NAME OF SUBCONTRACTOR: Creative Door & Millwork LLC  
 OWNERSHIP: CORPORATION ☐ PARTNERSHIP ☐ PROPRIETORSHIP ☒ LIMITED LIABILITY COMPANY  
 NAME(S) OF PRINCIPAL OFFICERS, PARTNERS OR OWNERS: Steve Stock & Christopher Bryan  
 SUBCONTRACTOR'S EIN OR SOCIAL SECURITY NO: [REDACTED]  
 BUSINESS ADDRESS: 2840 South Street  
Fort Myers, FL 33916  
 PHONE (239) 596-7872 FAX (239) 596-7880 EMAIL: jstakiann@creativedoorandmillwork.com

THIS AGREEMENT ("Agreement") made and entered into this 22<sup>nd</sup> day of February, 2011, by and between Stock Construction, LLC, a Florida limited liability company, its successors and/or assigns ("Stock") and Creative Door & Millwork LLC ("Subcontractor").

1. As used herein the following terms shall have the meanings specified unless the context otherwise requires.
  - (a) "Bid/Proposal" shall have the meaning specified in Paragraph 4.
  - (b) "Contract Documents" shall mean this Agreement, together with any and all Subcontractor Safety & Health Standards (Field Guidelines), Work Notification Forms, Bid/Proposals, and Plans and Specifications issued or utilized in connection with Work performed by Subcontractor.
  - (c) "FHA" shall mean the Federal Housing Administration.
  - (d) "Plans and Specifications" shall mean approved foundation plans, frame plans, floor plans, elevation plans, blueprints, construction sheet details, and other specifications, including FHA manuals.
  - (e) "Project" shall mean the following: Stock Development Communities
  - (f) "Stock" shall have the meaning specified in the beginning paragraph of this Agreement.
  - (g) "Subcontractor" shall have the meaning specified in the beginning paragraph of this Agreement and shall include Subcontractor's subcontractors, laborers, materialmen, agents, or employees, and anyone for whose acts any of them may be liable.
  - (h) "VA" shall mean the U.S. Department of Veterans Affairs.
  - (i) "Work" shall include, without limitation, any and all of the work specified in Paragraph 3 below, and any and all change order work, extra work, work included on all Work Notification Forms, unbudgeted work, and other work directed by Stock to be performed by Subcontractor, including but not limited to the management, supervision, financing, labor, materials, tools, fuel, supplies, utilities, equipment and services of every kind and type necessary to diligently, timely, and fully perform and complete in a good and workmanlike manner the Work required by the Contract Documents.
  - (j) "Work Notification Form" shall mean a written order issued by Stock to Subcontractor specifying certain Work to be performed; the term Work Notification Form shall include forms designated "Purchase Order", "Job Start Order", "Field Purchase Order", and other similar designations and containing certain information about commencing such Work and the payment for such Work.
2. **NON-EXCLUSIVITY:** The purpose of this Agreement is to fix the obligations of Stock and Subcontractor as to the performance by Subcontractor of certain described Work. Subcontractor acknowledges that this Agreement is nonexclusive and that Stock is free to contract with any other person or entity for the performance of work which is the same or similar to that described in this Agreement. Subcontractor is also free to enter into third party contracts with any other subcontractor, laborer and/or materialmen for the provision of the Work to be provided hereunder. Subcontractor will ensure that such other work performed by third party subcontractors, laborers and materialmen does not interfere with Subcontractor's performance under the Contract Documents and all such other contracts shall not be deemed a direct contract between Stock and such third party subcontractors laborers, or materialmen. This Agreement shall not be construed as obligating Stock to accept bids or issue Work Notification Forms to Subcontractor.

3. **SCOPE OF WORK:** The Work to be performed by Subcontractor shall be more specifically described in subsequently issued Work Notification Forms but is generally described as: Interior doors, trim, hardware / Exterior doors / Windows / Installation

Cost Code No: \_\_\_\_\_

As set forth above, in conjunction with this Agreement, Stock may issue Work Notification Forms from time to time, covering the Work to be performed and time for completion at each specific job location. Subcontractor shall have no authority to commence Work at any job location until it has received a Work Notification Form for a specific job location. It shall be Subcontractor's responsibility to obtain a Work Notification Form before beginning any Work at a specific job location. In the event Subcontractor's proposal, estimate or similar document is attached to or referenced in a Work Notification Form issued by Stock, only those terms which define or identify the work to be performed by Subcontractor shall be incorporated as part of the Work Notification Form and/or this Agreement and any remaining portions of Subcontractor's proposal, estimate or similar document shall not be considered part of the Work Notification Form, this Agreement, or any agreement between Stock and Subcontractor. No substitutions shall be allowed in the performance of the Work unless expressly provided in the Plans and Specifications or applicable Work Notification Form, and only then upon Subcontractor first receiving all approvals required from Stock for substitutions. Subcontractor shall indemnify Stock for all loss, damage and expense incurred as a result of such substitutions, whether or not Subcontractor has obtained approval thereof.

4. **PRICING and PAYMENTS:** Subcontractor has submitted to Stock a Bid/Proposal pursuant to Stock's "invitation to bid" for Work; receipt of which is acknowledged thereon by Stock, which Bid/Proposal is incorporated herein by reference. The Bid/Proposal may be modified by Subcontractor only by a subsequent written and dated amendment, as approved by and receipt of which shall be acknowledged thereon by Stock, which approval Stock may withhold in its sole and absolute discretion. Upon acceptance and approval by Stock, such amended Bid/Proposal shall be attached hereto and incorporated herein by reference. The Bid/Proposal in effect at the time of the issuance of any Work Notification Form shall be applicable to all Work to be performed thereunder, without variation, unless otherwise approved in writing by Stock. Subcontractor acknowledges that its compensation is a fixed contractual rate; subject to modification under the next clause of this contract for changes in the Work required. Compensation under the Contract Documents is not hourly compensation. Subcontractor agrees that payment shall be made to the entity named in the beginning paragraph of this Agreement, and not to any individual person which provides Work pursuant to this Agreement.

Notwithstanding anything in this Agreement to the contrary, Subcontractor's right to any payment under this Agreement is expressly contingent and conditioned upon: (1) Stock's determination that all Work to be performed pursuant to a particular Work Notification Form has been completed satisfactorily; (2) If requested by Stock, the Subcontractor delivering to Stock a full and complete release of all liens and claims of Subcontractor and any and all of its subcontractors and suppliers of materials, labor, equipment, work, tools, services and other items furnished in connection with the Work; and (3) If requested by Stock, the Subcontractor delivering to Stock an affidavit (in a form satisfactory to Stock) that provides that so far as Subcontractor is able to ascertain, no person or entity other than the persons or entities furnishing such waivers and releases, has a right to any such lien or claim for materials, labor, equipment, work, tools, services or other items furnished in connection with the Work.

Notwithstanding anything in this Agreement to the contrary, if requested by Stock, Subcontractor's failure to supply these lien waivers and releases will negate any request for payment until such time as the lien waivers and releases are provided. If any lien or claim remains outstanding after all payments are made, Subcontractor shall refund to Stock all monies that Stock may be compelled to pay in discharging or resolving such lien or claim, including, without limitation, attorney's fees and costs. If Subcontractor fails to make any such refund within fifteen (15) days of notice to Subcontractor from Stock, Subcontractor shall be in breach of this Agreement, and Stock may, in addition to any other right and remedy, withhold from any sums due or to become due Subcontractor under this or any other Agreement such amount as may be required, in Stock's sole discretion, to discharge or resolve any such lien or claim, and to reimburse Stock for the applicable fees and costs incurred by Stock. Subcontractor shall defend, indemnify and hold harmless Stock and Stock's purchaser from the operation and effect of any lien or encumbrance arising out of the performance of Subcontractor's work, and shall turn over the property subject to the Work, including any improvements thereon, to Stock free and clear of all such liens and encumbrances. If any such lien or encumbrance is claimed by any person or entity performing any portion of Subcontractor's work, Subcontractor shall, immediately upon verbal notice from Stock, discharge same by payment or posting a sufficient bond to transfer the lien or encumbrance from the real property to the bond. If Subcontractor continues to receive payments from Stock, Subcontractor will hold these payments and the rights to future payments from Stock in trust for the benefit of, and to be first applied to payment of those subcontractors, laborers, equipment suppliers and material suppliers who have performed any portion of Subcontractor's work, before using any portion of such payment for any other purpose. In the event Stock has reason to believe that labor, material, equipment or other obligations of Subcontractor incurred in

the performance of Subcontractor's work are not being promptly paid, Stock may, upon giving written notice to Subcontractor, take any steps deemed necessary to ensure that any payments from Stock to Subcontractor shall be utilized to pay such obligations. Upon such written notice, Stock may require Subcontractor to supply satisfactory evidence that Subcontractor's obligations have been paid or to post a payment and performance bond for the protection of Stock, its purchaser, and those to whom Subcontractor has an obligation for payment. The failure of Subcontractor to provide either of these means of security shall entitle Stock to retain out of any payment due or become due to Subcontractor a reasonable amount to protect Stock from any and all loss, damage or expense including attorney's fees arising out of or relating to any such claim or lien from one to whom Subcontractor has an obligation until the claim or lien has been satisfied by Subcontractor.

Acceptance of Work and payment therefore by Stock under this paragraph shall not be construed as a waiver by Stock for Work later found defective and shall not release the Subcontractor from liability under any warranty for defective Work or for any obligation to perform warranty service Work.

5. **SUBCONTRACTOR REVIEW and INSPECTION:** Subcontractor expressly agrees to read and familiarize itself completely with all Contract Documents, including but not limited to the Plans and Specifications applicable to this Agreement or any Work Notification Form, to independently verify all information furnished by Stock or contained in the Plans and Specifications and to inspect the job site before starting any Work under a Work Notification Form. Subcontractor shall immediately report in writing to Stock any discrepancy, deficiency, variance from or violation of any laws, ordinances, rules, regulations or orders of any public authorities observed or known to Subcontractor in the Work, Plans and Specifications or at the job site. All Plans and Specifications furnished to Subcontractor by Stock are the property of Stock and shall not be duplicated or used for any purpose other than the performance of the Work and must be returned to Stock at the completion of Subcontractor's Work. Subcontractor shall be solely responsible for all construction under this Agreement and any Work Notification Form, including the techniques, sequences, procedures and means, and for coordination of all Work.

Subcontractor has made an independent investigation of the site, and the soil conditions and has satisfied itself as to all of these conditions such that the Bid/Proposal include payments for all Work which may be performed by Subcontractor to overcome any unanticipated, underground, or concealed conditions. Subcontractor waives any and all rights and claims for any changes to the Work Notification Form amount for any items or claims which Subcontractor could have become aware of prior to accepting the Work Notification Form and/or commencing Work thereunder had its examinations of the Project been conducted in a reasonable manner.

Subcontractor shall be responsible for inspecting any work of another contractor that may affect its own Work and shall report in writing to Stock any defects in such work upon discovery of the defect prior to commencing any portion of the Work, or it shall be deemed to have accepted such work as correct and fit to be accommodated into its own. If Subcontractor shall be delayed in the commencement, prosecution, or completion of the Work or shall be obstructed or hindered in the orderly progress of the Work by an act, failure to act, omission, neglect or default of Stock, any architect, another contractor or subcontractor, or any of their respective agents or employees, or by any cause beyond the control of Subcontractor, then the time fixed for completion of the Work may be extended in the sole discretion of Stock and only if Subcontractor notifies Stock in writing within forty-eight (48) hours of the discovery of the cause of such delay. Subcontractor expressly agrees not to make, and hereby waives, any claim for damages on account of any delay, obstruction, or hindrance for any cause whatsoever, including but not limited to, the aforesaid causes, and agrees that Subcontractor's sole right and remedy in the case of any delay shall be an extension of the time fixed for completion of the Work.

6. **PROSECUTION OF WORK:** Subcontractor shall cooperate with all other contractors engaged by Stock to the effect that their work shall not be impeded and shall give such other contractors access to the job site necessary to perform their contracts. Subcontractor shall perform the Work in a prompt and diligent manner whenever such Work, or any part of it, becomes available, or at such other time or times as Stock may direct so as to promote the progress of the entire Project. Subcontractor shall not delay or otherwise interfere with or hinder the work of any other contractor on the job. If the work or property of another is hindered, delayed, or damaged by Subcontractor, Subcontractor will pay for all costs and damages incurred by such other party and will cause all such damage to be corrected to the satisfaction of and without cost to Stock. Any materials that are to be furnished by Subcontractor hereunder shall be furnished in sufficient time to enable Subcontractor to perform and complete its Work with the time or times provided for herein or in any Work Notification Form. If, in the opinion of Stock, in its sole discretion, Subcontractor falls behind in furnishing the necessary labor and/or materials to meet the schedule established by Stock, then Subcontractor shall take such steps and actions as are deemed necessary by Stock to improve the rate of progress, including, but not limited to, increasing the labor force, number of shifts and/or work such overtime as may be required, at its own expense, to bring its part of the Work up to the schedule established by Stock. Subcontractor agrees to reimburse or pay Stock, or Stock may withhold payment otherwise due under this Agreement, for any and all damages that Stock may sustain as a result of such delays by Subcontractor. Time is of the essence in this Agreement.

Subcontractor shall perform all labor in a thorough and workmanlike manner, according to the highest standards of the trade. Subcontractor warrants that all labor done and any materials furnished by Subcontractor will meet or exceed FHA minimum property standards, VA requirements, any applicable building code requirements and all Stock requirements. Should a dispute arise as to the proper interpretation of this Agreement, or any work or material performed or furnished hereunder, which concerns the parties hereto only, or which concerns Subcontractor and any other contractor(s), subcontractor(s) or supplier(s), the dispute shall be decided by Stock, whose decision thereon shall be final and conclusive. In any event, and in spite of any dispute, claim, or controversy arising out of this Agreement, Subcontractor shall proceed diligently with the Work, pending final determination pursuant to any disputes clause or pursuant to any other action taken with respect to any dispute, claim, or controversy.

7. **MATERIALS and EQUIPMENT:** Subcontractor shall secure and maintain material ordered by Subcontractor until completion of the Work and satisfaction acceptance by Stock. Subcontractor shall be responsible for the receipt, delivery, unloading, hoisting storage, warehousing, protection, insurance and all other risks of loss relating to any materials or equipment Subcontractor is to furnish, install, provide, or have provided to it under this Agreement. Subcontractor shall keep adequate supply of materials on hand at all times, as required to meet production schedules. Subcontractor shall be responsible for the security of all materials on the jobsite. Further, if the Work requires the installation of materials furnished by others, it shall be the responsibility of the Subcontractor to examine the items so provided, and to thereupon handle, store, and install the items with such skill and care to ensure a satisfactory and proper installation. Loss or damage to the materials due to acts of negligence by the Subcontractor shall be deducted from any amounts due or to become due to the Subcontractor.
8. **SUBCONTRACTOR REPRESENTATIONS:** Subcontractor represents and warrants that it is fully qualified in all respects to perform the Work and shall at all times maintain strict discipline among its employees. Subcontractor shall supervise and direct the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with the Contract Documents. Subcontractor shall be responsible to see that the finished Work complies accurately with the Contract Documents. Subcontractor agrees not to employ any person unfit or without sufficient skill to perform the job for which Subcontractor was retained for the Project. Subcontractor agrees that Stock shall not provide training of any kind. Accordingly, it is the sole responsibility and expense of Subcontractor to provide training for the Subcontractor or its employees, agents, or subcontractors.

Subcontractor shall not discriminate against any employee or applicant for employment because of race, creed, color, sex, age or national origin. Subcontractor shall comply with all equal opportunity or affirmative action requirements or plans as may be set forth in the Contract Documents.

Subcontractor shall at all times remain an independent contractor, solely responsible for the Work, methods, techniques, procedures and supervision and coordinating all portions of the Work to be performed under this Agreement and Field Guidelines. No provision hereof shall be construed to make Subcontractor Stock's agent. All person employed by Subcontractor, or Subcontractor's sub-contractors to perform services in connection with this Agreement shall be under the exclusive control and direction of Subcontractor or Subcontractor's subcontractors, it being the intention of the parties that Subcontractor and its subcontractors shall be and remain an independent contractor. Stock shall not exert actual control, nor possess the right to control, the actions of the employees of Subcontractor or Subcontractor's subcontractors in performing duties under this Agreement.

Subcontractor shall fully protect the Work from loss or damage and shall bear the cost of any such loss or damage until final payment has been made. If Subcontractor or any one for whom Subcontractor is legally liable for is responsible for any loss or damage to the Work, or other work or materials of Stock or Stock's separate contractors, Subcontractor shall be charged with the same, and any monies necessary to replace such loss or damage shall be deducted from any amounts due Subcontractor.

Subcontractor shall not load nor permit any part of any structure or property to be loaded in any manner that will endanger that structure or property, nor shall Subcontractor subject any part of the Work or adjacent property to stresses or pressures that will endanger it.

9. **LICENSES and PERMITS:** Subcontractor shall, at Subcontractor's sole expense, hold and maintain all required licenses, obtain all required permits and shall comply with all laws and ordinances and the rules, regulations, and orders of all public authorities relating to the performance of the Work. In the event of termination of this Agreement, Subcontractor shall immediately transfer and assign to Stock any and all applicable certificates, permits, contracts, subcontracts, and purchase orders relating to the Work. Subcontractor agrees that Stock is not responsible for providing any tools or benefits for the Subcontractor or its employees, agents, or subcontractors.

10. **REGULATORY COMPLIANCE and HAZARDOUS SUBSTANCES:** The Occupational Safety and Health Act of 1970, as amended (OSHA) has established regulations entitled OSHA Hazard Communication Standard. According to the regulations, manufacturers of hazardous materials are required to furnish Material Safety Data Sheets (MSDS) giving information on proper handling and precautionary measures in using the materials. Many substances commonly used in residential construction fit the description of hazardous materials established by OSHA. Subcontractor shall comply with all OSHA regulations pertaining to the work and any materials used in the work. Subcontractor shall have sole and exclusive responsibility for training its employees, subcontractors and suppliers in the proper handling of hazardous materials and any precautionary measures required. Subcontractor shall supply all protective clothing and devices necessary to protect its employees, subcontractors and suppliers from hazardous materials while on the site. Subcontractor shall obtain all MSDS's pertaining to any hazardous material used or created in the process of performing the work, and shall distribute copies of such MSDS's to Company and to all other contractors, subcontractors, and suppliers performing work on the site. Subcontractor shall also obtain from all other contractors, subcontractors and suppliers performing work on the site, copies of all MSDS's for all hazardous materials used or created by such contractors, subcontractors or suppliers, and shall retain copies of such MSDS's and provide them to Subcontractor's employees, subcontractors and suppliers as required by the OSHA regulations. In other words, Subcontractor must exchange MSDS's with all other contractors, subcontractors and suppliers, and implement a training program for its employees.

Subcontractor acknowledges and understands that the Project may be subject to the requirements of the National Pollutant Discharge Elimination System, as amended (NPDES) and Clean Water Act, as amended (CWA). Subcontractor is fully aware of the NPDES and CWA and shall not in any way interfere, damage or in any way negatively impact the structures and /or procedures in place or to be implemented at the Project pertaining to NPDES and CWA. Subcontractor shall be responsible for any loss, damage, fine and penalty incurred by Stock or its affiliates due to acts of negligence by the Subcontractor and such costs and expenses shall be deducted from any amounts due or to become due to the Subcontractor. Further, Subcontractor shall indemnify Stock for any and all costs, fines, penalties and expenses incurred by Stock as a result of violations of NPDES and CWA caused by Subcontractor.

11. **EMERGENCIES:** In the event of an emergency affecting the safety or protection of persons or the Work or property at the job site or adjacent thereto, Subcontractor, without special instruction or authorization from Stock is obligated to act to prevent threatened damage, injury or loss. Subcontractor shall give Stock written notice within twenty-four (24) hours after the occurrence of the emergency, if Subcontractor believes that any significant changes in the Work or variations from the Contract Documents have been caused thereby. If the Stock determines that a change in the Contract Documents is required because of the action taken in response to an emergency, a Change Order shall be issued to document the consequences of the changes or variations. If Subcontractor fails to provide the twenty-four (24) hour written notice noted above, the Subcontractor shall be deemed to have waived any right it otherwise may have had to seek an adjustment Pricing or an extension to the term of this Agreement.
12. **ASSUMPTION OF LIABILITY:** Subcontractor agrees to, and hereby does, assume full responsibility for any and all acts, negligence or omissions of Subcontractor's employees, laborers, agents, materialmen, and subcontractors and any and all employees and agents of the aforementioned, and any and all other persons doing work under an oral or written order or contract with Subcontractor.
13. **INDEMNIFICATION, HOLD HARMLESS & DEFENSE:** The Work performed by the Subcontractor shall be at the risk of the Subcontractor exclusively. To the fullest extent permitted by law, at Subcontractor's sole expense, Subcontractor shall indemnify, defend and hold harmless both Stock and the Owner (if different from Stock) and their affiliated companies, parents, subsidiaries, partners, joint ventures, representatives, members, designees, officers, directors, shareholders, employees, agents, successors, and assigns (collectively referred to as "Indemnified Party/ies") of, from, and against any and all claims concerning, pertaining to, related to, arising out of and/or connected with the Work and Contract Documents, including but not limited to demands, suits, liabilities, causes of action, damages, claims for bodily injury, death or damage to property, judgments, contractual liabilities, including costs and expenses associated thereto which include but is not limited investigative and repair costs, attorneys' fees and costs, consultants' fees and costs, and other expenses; any of which arise out of, relate to, result from, are occasioned by, contributed to by, connected with and/or are in any way caused, in whole or in part, by the acts of, omissions, failures and/or performance by Subcontractor and/or any of its subcontractors, laborers, materialmen, agents, or employees, or anyone for whose acts any of them may be liable, as to any of the following (collectively referred to as "Claims"):
- (a) Work as required by the Contract Documents and under this Agreement;
  - (b) construction or others services as required by the Contract Documents and under this Agreement;
  - (c) materials furnished as required by the Contract Documents and under this Agreement;
  - (d) violations or alleged violations of Occupational Safety and Health Act of 1970, as amended, or to regulations promulgated thereunder, and/or to violations or alleged violations similar state laws and regulations;

(e) injuries of/to and/or destruction of tangible property, including the loss of use or economic loss resulting therefrom;  
(f) defectively performed and/or alleged defectively performed Work by Subcontractor and/or any of its subcontractors, laborers, materialmen, agents, or employees, or anyone for whose acts any of them may be liable;  
(g) breach of this Agreement; and/or  
(h) acts or omissions which include negligent or willful misconduct of Subcontractor and/or any of its subcontractors, laborers, materialmen, agents, or employees, or anyone for whose acts any of them may be liable, whether active or passive.

In Whole or in Part: Subcontractor's obligation to indemnify, defend and hold harmless the Indemnified Parties, shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist to any party or person described in this Paragraph 13.

Subcontractor's obligation to indemnify, defend and hold harmless the Indemnified Parties is applicable whether any Claims are caused in part by any of the Indemnified Parties, whether active or passive.

Subcontractor's obligation to indemnify, defend and hold harmless the Indemnified Parties is applicable whether any Claims are caused in part by the concurrent act(s), omission(s) by and/or negligence of any of the Indemnified Parties, whether active or passive, provided however, said Indemnified Party shall not be indemnified for its own sole negligence or willful misconduct.

Limitations on Obligations & Florida Statutes, Section 725.06: With regard to any and all Claims, Subcontractor's obligation to indemnify, defend and hold harmless the Indemnified Parties shall not be limited in any way by any limitation on the amount or type of damages, compensation, insurance requirements and limits set forth in Exhibit "A", or benefits payable by/for Subcontractor or any subcontractor under workers' or workmen's compensation acts, disability acts or other employee benefits acts. Notwithstanding the foregoing, Subcontractor's obligation to indemnify, defend and hold harmless the Indemnified Parties shall be limited to the greater of:

- (a) A maximum of \$5,000,000.00; or
- (b) the amount of this Agreement sum; or
- (c) the maximum amount of insurance coverage limits available to the Subcontractor under any and all policies of insurance and applicable to any Claim(s).

The parties agree and acknowledge that this limitation bears a reasonable commercial relationship to this Agreement and the services being provided hereunder, and this indemnity clause is intended to comply with the Florida laws on indemnity and specifically to comply with Florida Statutes, Section 725.06, including any amendments thereto, and is to be interpreted in such a way as to be fully enforceable. If any word, clause or provision of this Paragraph 13 is determined not to be in compliance with Florida Statutes, Section 725.06, including any amendments thereto, it shall be ineffective and the remaining words, clauses and provisions shall remain in full force and effect.

Duty to Defend: Subcontractor's duty to defend under this Paragraph 13 is independent and separate from its duty to indemnify and hold harmless, and the duty to defend exists regardless of any ultimate liability of Stock and/or any Indemnified Party. The duty to defend arises immediately upon presentation of a Claim by any person or entity with written notice of such Claim being provided to Subcontractor.

Survival Provision: Subcontractor's obligation to indemnify, defend and hold harmless will survive the expiration or earlier termination of this Agreement until it is determined by final judgment that an action against the Indemnified Party/ies for any and all matters indemnified is fully and finally barred by the applicable statute of limitations.

Waiver of Subrogation: Subcontractor waives any rights of subrogation against Stock and shall require any of Subcontractor's subcontractors, laborers, materialmen, agents, or employees, and anyone for whose acts any of them may be liable to waive their subrogation rights against Stock.

Secure Performance: At its sole discretion, Stock may withhold, from time to time, from any monies otherwise due Subcontractor hereunder or under any other contract or agreements, a sum of money, which, in the sole judgment of Stock, shall be sufficient to secure the performance of Subcontractor's obligations under this Paragraph 13.

Notice: Stock shall provide written notice of any Claims within sixty (60) days after Stock becomes reasonably aware that Subcontractor may be liable for any such Claims.

14. SUBCONTRACTOR WARRANTIES: Subcontractor represents and warrants to Stock that all equipment and materials provided by Subcontractor and incorporated in the Work will be new, unless otherwise specified in the Plans and Specifications, and together with the Subcontractor's Work shall be of good quality; free of defects and in conformity with the Contract Documents. It is understood between the parties hereto that all equipment, materials and Work not so in conformity shall be defective. Subcontractor specifically agrees that it is responsible for the protection of the Work until final completion and that Subcontractor will make good or replace, at no expense to Stock, any damage to the Work which occurs prior to said final completion. Inspection by Stock shall not relieve Subcontractor of its obligations herein. SUBCONTRACTOR FURTHER WARRANTS THAT ALL LABOR AND MATERIALS FURNISHED BY



SUBCONTRACTOR SHALL BE FREE OF DEFECTS FOR A PERIOD BEGINNING AT THE DATE THAT STOCK CONVEYS TITLE OF THE SUBJECT OF THE WORK, (HOUSE OR CONDOMINIUM UNIT) TO A PURCHASER OF THE HOUSE OR CONDOMINIUM UNIT, AND CONTINUING FROM SUCH DATE UNTIL THE LAST OF THE FOLLOWING TO OCCUR: (1) ONE YEAR; (2) FOR THE DURATION OF ANY LIMITED WRITTEN WARRANTY GIVEN BY STOCK TO SUCH PURCHASER OR (3) THE DURATION OF ANY COMMON LAW OR STATE OR FEDERAL STATUTORY WARRANTIES OF SUCH PURCHASER, OR SUBSEQUENT PURCHASER, OR ANY OTHER PERSON OR ENTITY, IF ANY. SUBCONTRACTOR AGREES TO MAKE, AT SUBCONTRACTOR'S SOLE EXPENSE, ALL REPAIRS AND CORRECT SUCH DEFECTS IN ORDER TO MEET ANY OF SUBCONTRACTOR'S WARRANTY OBLIGATIONS WITHIN EIGHT (8) HOURS OF NOTICE (ORAL OR WRITTEN) OF SUCH DEFECT IN AN EMERGENCY (DETERMINED BY STOCK IN ITS SOLE DISCRETION) AND WITHIN FORTY-EIGHT (48) HOURS OF NOTICE ON A NON-EMERGENCY BASIS. In addition, Subcontractor shall transfer any and all applicable manufacturer's warranties, together with all service and operating manuals for materials furnished by it under this Agreement, to Stock when the Work is completed or this Agreement is terminated, whichever Occurs first. The warranty contained in this paragraph 14 is in addition to any other special warranties required by contract or law, and such warranty does not negate or abridge Stock's right to assert claims for latent or patent defects in accordance with applicable law.

The Subcontractor agrees to satisfy such warranty obligations which appear within the warranty or guarantee periods established in the Contract Documents without cost to the Owner or the Contractor. If no guarantee of warranty is required of the Contractor in the Contract Documents, then the Subcontractor shall guarantee or warranty the Subcontractor Work for the period of one (1) year from the date(s) of conveyance to the end user.

The Subcontractor further agrees to execute any special guarantees or warranties that shall be required for the Subcontractor's Work prior to final payment.

All guarantees and warranties must be submitted to the Contractor in a form acceptable to the Contractor prior to and as a condition for final payment.

Subcontractor expressly agrees that all warranties made by it in this Agreement shall survive the termination or expiration of this Agreement for any reason prior to the expiration of the full warranty period.

15. **RUBBISH and DEBRIS:** Subcontractor agrees to keep the job site and adjoining property free of waste material and rubbish caused by its Work or that of its subcontractors and to remove all waste materials and rubbish on completion or termination of its Work together with all tools, equipment, and machinery. Subcontractor agrees that upon terminating its Work at the site, Subcontractor shall conduct general clean-up operations, including, but not limited to, the cleaning of glass surfaces, paved streets and walks, steps and interior floors and walls, where applicable. Any personal property left by Subcontractor on or around job site for thirty (30) days following completion of the Work, excluding any Work performed pursuant to warranty service obligations, will become the property of Stock.
16. **ASSIGNMENT:** Subcontractor shall not assign this Agreement or any payments due or to become due hereunder without the prior written consent of Stock, which consent may be withheld in the sole discretion of Stock. Payments to Subcontractor will be made in accordance with Stock's current published payment procedures, as the same may be amended from time to time. Payment to Subcontractor of all or any portion of any progress payment or the final payment shall not constitute or imply or be evidence of performance of the Work by Subcontractor or acceptance of any portion of Subcontractor's Work by Stock, or in any way waive or affect Stock's claims or rights against Subcontractor.
17. **CHANGES:** Stock reserves the right to make changes in the Work in the nature of additions, deletions, or modifications, without invalidating this Agreement and agrees to make corresponding adjustments in the contract price and time for performance. All changes will be authorized by a new written Work Notification Form which will include conforming changes in any Bid/Proposal, payment schedule and/or time for performance.
18. **INSURANCE REQUIREMENTS:** Subcontractor shall procure and maintain insurance policies in the form and amounts as set forth on Exhibit "A", attached hereto and incorporated herein by reference. All coverage shall be placed with an insurance carriers duly admitted in the State of Florida and shall be reasonably acceptable to Stock. All insurance carriers must maintain an A.M. Best rating of "A-VIII" or better. Certified copies of all insurance policies must be made available and provided to Stock within ten (10) days of Stock's request. The word "Claims" used in this Paragraph 18 has been defined in Paragraph 13 above.

Endorsements in Insurance Policies: In addition to Exhibit "A", the Subcontractor shall carry and maintain commercial general liability insurance on ISO form CG 00 01 10 01 (or a substitute form providing coverage equal to or greater than said form). All policies of liability insurance shall contain an Additional Insured Endorsement on ISO form CG 20 10 11 85 (or a substitute form providing coverage equal to

or greater than said form which would at a minimum additional insured status with respect arising out of Subcontractor's Work pursuant to the Contract Documents and which provides coverage both during the products completed operations hazard period.) Such insurance shall cover liability arising out of premises, operations, independent contractors, products-completed operations, personal and advertising injury, bodily injury, property damage, and liability assumed under an insured contract (including the tort liability of another assumed in a business contract). There shall be no endorsement or modification of the commercial general liability, excess or umbrella coverage forms which contains any of the following:

- (a) Limitations or Modification of Contractual Liability Language;
- (b) Limitations or exclusions for Damage to Work Performed by Sub Contractors;
- (c) Limitations or Exclusions for Residential Work
- (d) Limitations or Exclusions for Multi-Unit Dwellings
- (e) Limitations or Exclusions related to explosion, collapse, underground property damage;
- (f) Pollution Exclusions; or
- (g) work performed by subcontractors.

Additional Insured: Stock shall be named as an additional insured, loss payee and certificate holder on each of the policies as outlined in Exhibit "A". Coverage under all policies shall be afforded to the additional insureds whether or not any Claims are actually in litigation.

Stock shall remain as an additional insured on each policy for a period not less than ten (10) consecutive years from the date of final completion of the entire construction project that is the subject of this Agreement and the Contract Documents regardless of the date when the Subcontractor, Subcontractor's subcontractors, laborers, materialmen, agents, employees, and/or anyone for whose acts any of them may be liable, completes or finishes any Work or any other construction work, and/or regardless of the dates any certificates of occupancy are issued. Subcontractor's obligation to have Stock remain as an additional insured on each policy for a period not less than ten (10) consecutive years from the date of final completion of the entire construction project will survive the expiration or earlier termination of this Agreement until any and all Claims are fully and finally barred by the greater of any and all applicable statute of limitation or statute of repose.

Priority of Insurance Coverage: It is the intent of the parties that all available and applicable insurance coverage of the Subcontractor, whether primary or excess or umbrella policies, be primary coverage for any and all Claims concerning, pertaining to, related to, arising out of and/or connected with the Work and Contract Documents, regardless of who makes said Claims. Further, the parties intend that Stock's insurance policies be excess over any and all available and applicable insurance policies of Subcontractor for the purposes of indemnity and defense of Stock.

Certificates of Insurance: Prior to commencing any Work under this Agreement, Subcontractor shall submit to Stock copies of policies or Certificate of Insurance that confirm appropriate insurance coverage.

Each Certificate of Insurance shall provide that the insurer must give Stock at least ninety (90) days prior written notice of non-renewal or material change in coverage and termination of the coverage thereunder. Not less than two (2) weeks prior to the expiration, cancellation or termination of any such policy, the Subcontractor shall supply Stock with a new and replacement Certificate of Insurance and additional insured endorsements as proof of renewal/replacement policies of insurance.

Subcontractor's Notice to Insurance Carriers and Agents: Prior to commencing any Work under this Agreement, Subcontractor must provide a fully executed complete copy of this Agreement with Exhibit "A" and all amendments to each of its insurance agents and insurance carriers. Within ten (10) days after execution by the parties of any future amendments, modifications, additions, deletions, changes or addendums to this Agreement, Subcontractor must provide a fully executed complete copy of this Agreement with Exhibit "A", as amended, to each of its insurance agents and insurance carriers.

Subcontractor's Subcontractors: Subcontractor acknowledges it shall not subcontract any part of this Agreement without supplying Stock proof that all Subcontractor's subcontractors, laborers, materialmen, agents, or employees, and anyone for whose acts any of them may be liable, obtains and maintains appropriate insurance coverage as detailed in Exhibit "A". It shall be Subcontractor's sole responsibility to ensure that Subcontractor's subcontractors, laborers, materialmen, agents, or employees, and anyone for whose acts any of them may be liable, fully complies with this Paragraph 18 and Exhibit "A", and future amendments thereto.



Additionally, and prior to commencement of the Work, the Subcontractor shall provide Stock with a Certificate of Insurance showing insurance coverage, in compliance with Exhibit "A" each and every Subcontractor's subcontractors, laborers, materialmen, agents, and/or employees, and anyone for whose acts any of them may be liable. Coverage shall be no less than the limits as described in Exhibit "A". In the event any of these policies are terminated, for any reason, the Subcontractor shall provide Stock copies of Certificates of Insurance showing replacement coverage in compliance with Exhibit "A".

Waiver of Subrogation from Insurers: Subcontractor shall obtain from each of its insurers, a waiver of subrogation as to each of its insurance policies, in favor of Stock with respect to any Claims concerning, pertaining to, related to, arising out of and/or connected with the Work and Contract Documents.

Breach: Failure of Subcontractor to maintain complete and appropriate insurance is a material breach. In this event, in addition to the all other remedy provisions in this Agreement, Stock can elect to terminate this Agreement or to provide insurance at Subcontractor's sole expense; in neither case, however, shall Subcontractor's liability be lessened.

19. COMPLETION: Immediately upon the performance of any part of the Work, as between Subcontractor and Stock, title thereto shall vest in Stock to the extent permitted by law; provided, however, the vesting of such title shall not impose any obligations on Stock or relieve Subcontractor of any of its obligations hereunder. Upon completion of the Work described in any Work Notification Form, Subcontractor shall request the Stock representative on the job site to confirm completion of the Work. Thereafter, provided that Subcontractor is not in breach of this Agreement, and provided that Subcontractor is otherwise entitled to payment under this Agreement, upon notification to Stock, Stock shall pay Subcontractor for the Work described in the Work Notification Form in accordance with the Work Notification Form and the Bid/Proposal within sixty (60) days following Stock's receipt of a request for payment from Subcontractor. Subcontractor hereby agrees that if Subcontractor fails to request from Stock any sum, including, but not limited to, wages or contract sums due under this Agreement or any Work Notification Form, within ninety (90) days from the date they became due, said sums to Subcontractor and Subcontractor shall have no claim thereto.
20. WAIVER: TO THE EXTENT NOT PROHIBITED BY LAW, CONTRACTOR HEREBY WAIVES AND RELINQUISHES ANY AND ALL STATUTORY OR CONTRACTUAL RIGHTS THAT IT MAY HAVE TO OBTAIN STOP NOTICES OR LIENS, MECHANICS' OR OTHERWISE, AGAINST THE PROPERTY OR IMPROVEMENTS THAT ARE THE WORK AND AGREES NOT TO FILE ANY SUCH NOTICE OR LIEN AGAINST SUCH PROPERTY OR IMPROVEMENTS FOR ANY LABOR, SERVICES, WORK, MATERIALS, EQUIPMENT, TOOLS OR OTHER ITEMS FURNISHED TO OR FOR STOCK. TO THE EXTENT NOT PROHIBITED BY LAW, CONTRACTOR AGREES TO LOOK SOLELY TO ITS CONTRACTUAL RIGHTS FOR RECOVERY.
21. TAXES/CHARGES: Subcontractor shall pay all taxes, contributions and/or premiums payable on its employees or on its operations under workers' compensation laws, unemployment compensation laws, the Federal Social Security Act, health and welfare benefit plans, gross business taxes, sales and use taxes, contributions and/or premiums which are payable by the employees and the Subcontractor shall indemnify, defend and hold Stock harmless from all liability, loss and expense resulting from Subcontractor's failure to comply with these requirements. Subcontractor shall comply with all rules and regulations at any time applicable hereto and shall, on demand, substantiate to Stock's reasonable satisfaction that all taxes and charges are being properly paid. **SUBCONTRACTOR SHALL BE SOLELY RESPONSIBLE FOR WITHHOLDING TAXES, SOCIAL SECURITY TAXES AND STATE UNEMPLOYMENT TAXES FOR ALL EMPLOYEES OF SUBCONTRACTOR.**
22. DEFECTIVE WORK: Should Stock notify Subcontractor (orally or in writing) that any part of the Work is incorrect and does not conform to the terms of the Contract Documents, Subcontractor shall immediately begin to correct such defective work and shall complete such corrected work within forty-eight (48) hours unless Stock shall agree to a longer period. If Subcontractor refuses to perform any corrective work, Subcontractor shall waive the above described forty-eight (48) hour period and such refusal or failure to perform the corrective work shall be deemed a default by Subcontractor hereunder. Subcontractor shall bear the entire cost of such corrective work, including any cost incurred by the disturbance of work completed by other contractors.
23. BREACH: SUBCONTRACTOR SHALL BE IN BREACH OF THIS AGREEMENT IF;
- (a) Subcontractor's Work is defective and not remedied as provided herein; or
  - (b) Subcontractor does not make prompt and proper payments to its employees, agents and/or subcontractors; or
  - (c) Subcontractor does not make prompt and proper payments for labor, services, work, materials or equipment furnished by third parties to it; or
  - (d) Another contractor is damaged by an act for which Subcontractor is responsible; or

- (e) Subcontractor or any third party furnishing labor, services, work, materials, equipment, tools or other items for the Work files any claim or lien against the property where the Work has been performed and such claim or lien has not been discharged or resolved within twenty-four (24) hours after notice thereof to Subcontractor, and Subcontractor has not posted a discharge bond within this twenty four (24) hour period; or
- (f) Subcontractor fails to perform warranty service under this Agreement or any other prior or contemporaneous Subcontractor Agreement with Stock; or
- (g) Stock is fined by any governmental agency on account of or arising out of Subcontractor's (or Subcontractor's subcontractors or agents) violation of any law, ordinance, regulation, administrative ruling and/or court order; or
- (h) Subcontractor becomes insolvent or any petition for bankruptcy is filed with respect to Subcontractor; or
- (i) Subcontractor fails or neglects to prosecute the Work diligently and promptly, whether due to inadequate or incompetent supervision, insufficient skilled workers, lack of material or equipment, improper quantity or quality, or for any other reason not described herein;
- (j) Subcontractor fails to comply with any terms of this Agreement or any Work Notification Form issued under this Agreement.

**24. REMEDIES: IF SUBCONTRACTOR IS IN BREACH OF THIS AGREEMENT, IN ADDITION TO ANY AND ALL OTHER REMEDIES AVAILABLE UNDER APPLICABLE LAW, STOCK, IN ITS SOLE DISCRETION, MAY DO ANY OR ALL OF THE FOLLOWING:**

(A) IMMEDIATELY TERMINATE THIS AGREEMENT, ANY WORK NOTIFICATION FORM OR OTHER VERBAL OR WRITTEN AGREEMENT WITH SUBCONTRACTOR OR OTHER SUBCONTRACTOR BASE AGREEMENT BETWEEN SUBCONTRACTOR AND STOCK AND DISMISS SUBCONTRACTOR FROM THE JOB SITE BY PROVIDING SUBCONTRACTOR WITH WRITTEN NOTICE OF SUCH TERMINATION;

(B) ENGAGE OR EMPLOY OTHER CONTRACTORS TO REMEDY SUBCONTRACTOR'S DEFECTIVE WORK, TO COMPLETE ANY PORTION OF THE WORK NOT COMPLETED BY SUBCONTRACTOR, PERFORM SUBCONTRACTOR'S WARRANTY SERVICE OBLIGATIONS OR OTHERWISE CURE SUBCONTRACTOR'S BREACH AT SUBCONTRACTOR'S SOLE COST AND EXPENSE;

(C) WITHHOLD FROM SUBCONTRACTOR FOR UP TO ONE HUNDRED TWENTY (120) DAYS ANY SUMS WHICH MIGHT BE DUE OR BECOME DUE TO SUBCONTRACTOR, WHETHER UNDER THIS AGREEMENT, ANY WORK NOTIFICATION FORM OR ANY OTHER AGREEMENT, AND MAY CHARGE AGAINST ANY SUCH SUMS WITHHELD ALL SUMS EXPENDED OR COSTS INCURRED BY STOCK ARISING FROM THE ENGAGEMENT OF OTHER CONTRACTORS AS PROVIDED IN (B) ABOVE OR OTHERWISE RELATING TO SUBCONTRACTOR'S BREACH, INCLUDING, BUT NOT LIMITED TO, STOCK'S OVERHEAD AND PROFIT; AND/OR

(D) WITHHOLD FROM SUBCONTRACTOR FOR UP TO ONE (1) YEAR AN AMOUNT, WHICH AMOUNT SHALL NOT EXCEED FIVE PERCENT (5%) OF THE CONTRACT PRICE FOR THE WORK, TO INSURE SUBCONTRACTOR'S PERFORMANCE OF WARRANTY SERVICE OBLIGATIONS. SHOULD SUBCONTRACTOR FAIL TO PERFORM SUCH WARRANTY SERVICE OBLIGATIONS, STOCK MAY CHARGE AGAINST SUCH AMOUNT WITHHELD ALL SUMS EXPENDED OR COSTS INCURRED BY STOCK ARISING FROM SUBCONTRACTOR'S FAILURE TO PERFORM SUCH WARRANTY SERVICE OBLIGATIONS.

**25. TERMINATION:** This Agreement may also be terminated and Subcontractor dismissed from the job site by Stock at any time in its sole discretion, with or without cause, by providing Subcontractor with notice (written or oral, in the sole determination of Stock) of such termination, and such termination shall be effective as of the time and date stated in such notice. In the event of termination of the Agreement pursuant to this paragraph 25 without cause, Stock shall pay Subcontractor within sixty (60) days after the effective date of such termination, all sums due and owing Subcontractor for all labor incurred and all materials incorporated in the Work performed under this Agreement prior to the effective date and time of termination. Subcontractor acknowledges and agrees that if Subcontractor is terminated pursuant to this paragraph 25 with cause, Subcontractor shall have no claim against Stock for any additional sums, including, without limitations any claims for material purchased but not used in the Work, or for lost profits or for any other claim or sums whatsoever. The termination payment described herein, if applicable, is Subcontractor's sole remedy and in no event shall Subcontractor have any claim for consequential damages. Further, in the event of termination, Subcontractor will turn over all equipment and materials ordered, purchased for and delivered to the Project, and Stock will pay the Subcontractor any amounts due based on the percentage of completion of Subcontractor's Work that is in compliance with this Agreement and the Pricing, actually accomplished and equipment and materials supplied to the Project; excluding any payment for unearned profit and overhead. Subcontractor will facilitate transfer of Work to Stock by assigning its rights under subcontracts and purchase orders.

26. **ENTIRE AGREEMENT:** This Agreement, together with the Contract Documents, constitutes the entire agreement between Subcontractor and Stock and there are no other agreements, oral or written, by and between the parties hereto, except as to Subcontractor's warranties under any prior or contemporaneous Subcontractor Agreements with Stock, which warranties are incorporated by reference herein for all purposes. This Agreement, together with the Contract Documents, does not create a partnership or other unincorporated association between the Subcontractor and Stock. The relationship of Subcontractor is that of an independent contractor.
27. **HEADINGS:** The paragraph headings in this Agreement are for convenience only and shall not affect the meaning, interpretation or scope of the provisions which follow them.
28. **NOTICES:** Unless otherwise set forth herein, any notice to be given or served upon any party hereto in connection with this Agreement must be in writing, and shall be (a) delivered by hand, (b) sent by Federal Express, Express Mail or other overnight courier service, sent to the address on the first page hereof or such other address for notice as the parties shall last have furnished in writing to the person giving the notice or (c) sent by facsimile transmission with a copy delivered pursuant to (a) or (b) above. Any such notice or demand shall be deemed to have been duly given or made and to have become effective (i) if delivered by hand to a responsible officer of the party to which it is directed, at the time of the receipt thereof by such officer; (ii) if sent by facsimile transmission as of the date and time of transmission, and (iii) if sent by Federal Express, Express Mail or other reputable overnight courier service, upon the earlier of the date of receipt or one (1) business day after posting thereof. If a notice is mailed in the manner provided above, it is duly given, whether or not the addressee received it.
29. **INVALIDITY:** If any provision of this Agreement is held to be illegal, invalid or unenforceable under present or future laws, such provision shall be fully severable. This Agreement shall be construed enforced as if such illegal, invalid or unenforceable provision had never comprised a part of this Agreement, and the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by the illegal, invalid or unenforceable provision or by its severance from this Agreement. Furthermore, there shall be added automatically as if part of this Agreement a provision as similar in terms to such illegal, invalid or unenforceable provision as may be possible and may be legal, valid and enforceable.
30. **DISPUTE:** If a controversy or claim arises out of or related to this Agreement, including a claim relating to an action taken by Stock pursuant to the self-help remedies of paragraph 24, and the parties cannot resolve the matter between themselves within sixty (60) days after Stock is first provided written notice of the claim or controversy by Subcontractor, the parties agree to try in good faith to settle the dispute by mediation under the Construction Industry Mediation Rules of the American Arbitration Association. If not settled by mediation, the dispute shall be resolved by final and binding arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association, and judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. Should a dispute arise between Stock and a buyer of a residence regarding materials supplied or work performed by Subcontractor, Subcontractor agrees to participate in, and be bound by, arbitration proceedings between Stock and the buyer.
31. **JURISDICTION and PRESUMPTION:** This Agreement shall be governed by and construed under the laws of the State of Florida. Any action brought to enforce or interpret this Agreement shall be brought in the court of appropriate jurisdiction in the county in which the property is located. Should any provision of this Agreement require judicial interpretation, the parties hereto agree and stipulate that the court interpreting or considering the same shall not apply the presumption that the terms hereof shall be more strictly construed against a party by reason of any legal conclusion that a document should be construed more strictly against the party who itself or through its agents prepared the same, or being agreed that all parties hereto have participated in the preparation and negotiation of this Agreement and each party had full opportunity to consult legal counsel of its choice prior to the execution of this Agreement.
32. **WAIVER:** Except as expressly set forth herein, this Agreement may not be changed, modified or terminated, except by an instrument executed by the parties hereto. No waiver by either party of any failure or refusal to comply with the obligation of any other party hereunder shall be deemed a waiver of any other or subsequent failure or refusal to so comply.
33. **COUNTERPARTS and FACSIMILE/PDF SIGNATURES:** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which shall constitute one and the same agreement. Signatures given via facsimile or scan PDF transmission shall be deemed given as of the date and time of transmission to the other party and shall be deemed original.
34. **PERSONS BOUND:** The provisions of this Agreement shall inure to the benefit of, and shall bind, the heirs, executors, administrators, successors and assigns of the respective parties. No person shall be deemed to be a third party beneficiary of this Agreement or any portion thereof. Subcontractor may not assign this Agreement without Stock's prior written consent, which consent Stock may withhold in its sole

and absolute discretion. Stock may assign this Agreement to any affiliate, subsidiary or other third party by providing Subcontractor five (5) days written notice thereof.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

**STOCK:**

STOCK CONSTRUCTION, LLC, a  
Florida limited liability company

By: 

Print Name: Bob Tracy

Title: President

**SUBCONTRACTOR:**

Creative Door & Millwork LLC  
(Subcontractor Entity Name)

By: 

Print Name: Christopher D Bryan

Title: President

# EXHIBIT 3

# STOCK

2647 Professional Circle • Suite 1201 • Naples, FL 34119

## Subcontractor Base Agreement

NAME OF SUBCONTRACTOR: Daly Construction, Inc  
OWNERSHIP: ☒ CORPORATION ☐ PARTNERSHIP ☐ PROPRIETORSHIP ☐ LIMITED LIABILITY COMPANY  
NAME(S) OF PRINCIPAL OFFICERS, PARTNERS OR OWNERS: James T Daly  
SUBCONTRACTOR'S EIN OR SOCIAL SECURITY NO: [REDACTED]  
BUSINESS ADDRESS: 1085 Business Lane Unit 5  
Naples FL 34110  
PHONE 239-593-6793 FAX 239-593-6802 EMAIL: daly.construction@nol.com

THIS AGREEMENT ("Agreement") made and entered into this 28 day of January, 2011, by and between Stock Construction, LLC, a Florida limited liability company, its successors and/or assigns ("Stock") and Daly Construction ("Subcontractor").

1. As used herein the following terms shall have the meanings specified unless the context otherwise requires.
  - (a) "Bid/Proposal" shall have the meaning specified in Paragraph 4.
  - (b) "Contract Documents" shall mean this Agreement, together with any and all Subcontractor Safety & Health Standards (Field Guidelines), Work Notification Forms, Bid/Proposals, and Plans and Specifications issued or utilized in connection with Work performed by Subcontractor.
  - (c) "FHA" shall mean the Federal Housing Administration.
  - (d) "Plans and Specifications" shall mean approved foundation plans, frame plans, floor plans, elevation plans, blueprints, construction sheet details, and other specifications, including FHA manuals.
  - (e) "Project" shall mean the following: \_\_\_\_\_
  - (f) "Stock" shall have the meaning specified in the beginning paragraph of this Agreement.
  - (g) "Subcontractor" shall have the meaning specified in the beginning paragraph of this Agreement and shall include Subcontractor's subcontractors, laborers, materialmen, agents, or employees, and anyone for whose acts any of them may be liable.
  - (h) "VA" shall mean the U.S. Department of Veterans Affairs.
  - (i) "Work" shall include, without limitation, any and all of the work specified in Paragraph 3 below, and any and all change order work, extra work, work included on all Work Notification Forms, unbudgeted work, and other work directed by Stock to be performed by Subcontractor, including but not limited to the management, supervision, financing, labor, materials, tools, fuel, supplies, utilities, equipment and services of every kind and type necessary to diligently, timely, and fully perform and complete in a good and workmanlike manner the Work required by the Contract Documents.
  - (j) "Work Notification Form" shall mean a written order issued by Stock to Subcontractor specifying certain Work to be performed; the term Work Notification Form shall include forms designated "Purchase Order", "Job Start Order", "Field Purchase Order", and other similar designations and containing certain information about commencing such Work and the payment for such Work.
2. **NON-EXCLUSIVITY:** The purpose of this Agreement is to fix the obligations of Stock and Subcontractor as to the performance by Subcontractor of certain described Work. Subcontractor acknowledges that this Agreement is nonexclusive and that Stock is free to contract with any other person or entity for the performance of work which is the same or similar to that described in this Agreement. Subcontractor is also free to enter into third party contracts with any other subcontractor, laborer and/or materialmen for the provision of the Work to be provided hereunder. Subcontractor will ensure that such other work performed by third party subcontractors, laborers and materialmen does not interfere with Subcontractor's performance under the Contract Documents and all such other contracts shall not be deemed a direct contract between Stock and such third party subcontractors laborers, or materialmen. This Agreement shall not be construed as obligating Stock to accept bids or issue Work Notification Forms to Subcontractor.

BS  
JO

3. **SCOPE OF WORK:** The Work to be performed by Subcontractor shall be more specifically described in subsequently issued Work Notification Forms but is generally described as: Metal Framing Drywall Stucco

Cost Code No: \_\_\_\_\_

As set forth above, in conjunction with this Agreement, Stock may issue Work Notification Forms from time to time, covering the Work to be performed and time for completion at each specific job location. Subcontractor shall have no authority to commence Work at any job location until it has received a Work Notification Form for a specific job location. It shall be Subcontractor's responsibility to obtain a Work Notification Form before beginning any Work at a specific job location. In the event Subcontractor's proposal, estimate or similar document is attached to or referenced in a Work Notification Form issued by Stock, only those terms which define or identify the work to be performed by Subcontractor shall be incorporated as part of the Work Notification Form and/or this Agreement and any remaining portions of Subcontractor's proposal, estimate or similar document shall not be considered part of the Work Notification Form, this Agreement, or any agreement between Stock and Subcontractor. No substitutions shall be allowed in the performance of the Work unless expressly provided in the Plans and Specifications or applicable Work Notification Form, and only then upon Subcontractor first receiving all approvals required from Stock for substitutions. Subcontractor shall indemnify Stock for all loss, damage and expense incurred as a result of such substitutions, whether or not Subcontractor has obtained approval thereof.

4. **PRICING and PAYMENTS:** Subcontractor has submitted to Stock a Bid/Proposal pursuant to Stock's "invitation to bid" for Work, receipt of which is acknowledged thereon by Stock, which Bid/Proposal is incorporated herein by reference. The Bid/Proposal may be modified by Subcontractor only by a subsequent written and dated amendment, as approved by and receipt of which shall be acknowledged thereon by Stock, which approval Stock may withhold in its sole and absolute discretion. Upon acceptance and approval by Stock, such amended Bid/Proposal shall be attached hereto and incorporated herein by reference. The Bid/Proposal in effect at the time of the issuance of any Work Notification Form shall be applicable to all Work to be performed thereunder, without variation, unless otherwise approved in writing by Stock. Subcontractor acknowledges that its compensation is a fixed contractual rate, subject to modification under the next clause of this contract for changes in the Work required. Compensation under the Contract Documents is not hourly compensation. Subcontractor agrees that payment shall be made to the entity named in the beginning paragraph of this Agreement, and not to any individual person which provides Work pursuant to this Agreement.

Notwithstanding anything in this Agreement to the contrary, Subcontractor's right to any payment under this Agreement is expressly contingent and conditioned upon: (1) Stock's determination that all Work to be performed pursuant to a particular Work Notification Form has been completed satisfactorily; (2) If requested by Stock, the Subcontractor delivering to Stock a full and complete release of all liens and claims of Subcontractor and any and all of its subcontractors and suppliers of materials, labor, equipment, work, tools, services and other items furnished in connection with the Work, and (3) If requested by Stock, the Subcontractor delivering to Stock an affidavit (in a form satisfactory to Stock) that provides that so far as Subcontractor is able to ascertain, no person or entity other than the persons or entities furnishing such waivers and releases, has a right to any such lien or claim for materials, labor, equipment, work, tools, services or other items furnished in connection with the Work.

Notwithstanding anything in this Agreement to the contrary, if requested by Stock, Subcontractor's failure to supply these lien waivers and releases will negate any request for payment until such time as the lien waivers and releases are provided. If any lien or claim remains outstanding after all payments are made, Subcontractor shall refund to Stock all monies that Stock may be compelled to pay in discharging or resolving such lien or claim, including, without limitation, attorney's fees and costs. If Subcontractor fails to make any such refund within fifteen (15) days of notice to Subcontractor from Stock, Subcontractor shall be in breach of this Agreement, and Stock may, in addition to any other right and remedy, withhold from any sums due or to become due Subcontractor under this or any other Agreement such amount as may be required, in Stock's sole discretion, to discharge or resolve any such lien or claim, and to reimburse Stock for the applicable fees and costs incurred by Stock. Subcontractor shall defend, indemnify and hold harmless Stock and Stock's purchaser from the operation and effect of any lien or encumbrance arising out of the performance of Subcontractor's work, and shall turn over the property subject to the Work, including any improvements thereon, to Stock free and clear of all such liens and encumbrances. If any such lien or encumbrance is claimed by any person or entity performing any portion of Subcontractor's work, Subcontractor shall, immediately upon verbal notice from Stock, discharge same by payment or posting a sufficient bond to transfer the lien or encumbrance from the real property to the bond. If Subcontractor continues to receive payments from Stock, Subcontractor will hold these payments and the rights to future payments from Stock in trust for the benefit of, and to be first applied to payment of those subcontractors, laborers, equipment suppliers and material suppliers who have performed any portion of Subcontractor's work, before using any portion of such payment for any other purpose. In the event Stock has reason to believe that labor, material, equipment or other obligations of Subcontractor incurred

the performance of Subcontractor's work are not being promptly paid, Stock may, upon giving written notice to Subcontractor, take any steps deemed necessary to ensure that any payments from Stock to Subcontractor shall be utilized to pay such obligations. Upon such written notice, Stock may require Subcontractor to supply satisfactory evidence that Subcontractor's obligations have been paid or to post a payment and performance bond for the protection of Stock, its purchaser, and those to whom Subcontractor has an obligation for payment. The failure of Subcontractor to provide either of these means of security shall entitle Stock to retain out of any payment due or become due to Subcontractor a reasonable amount to protect Stock from any and all loss, damage or expense including attorney's fees arising out of or relating to any such claim or lien from one to whom Subcontractor has an obligation until the claim or lien has been satisfied by Subcontractor.

Acceptance of Work and payment therefore by Stock under this paragraph shall not be construed as a waiver by Stock for Work later found defective and shall not release the Subcontractor from liability under any warranty for defective Work or for any obligation to perform warranty service Work.

5. **SUBCONTRACTOR REVIEW and INSPECTION:** Subcontractor expressly agrees to read and familiarize itself completely with all Contract Documents, including but not limited to the Plans and Specifications applicable to this Agreement or any Work Notification Form, to independently verify all information furnished by Stock or contained in the Plans and Specifications and to inspect the job site before starting any Work under a Work Notification Form. Subcontractor shall immediately report in writing to Stock any discrepancy, deficiency, variance from or violation of any laws, ordinances, rules, regulations or orders of any public authorities observed or known to Subcontractor in the Work, Plans and Specifications or at the job site. All Plans and Specifications furnished to Subcontractor by Stock are the property of Stock and shall not be duplicated or used for any purpose other than the performance of the Work and must be returned to Stock at the completion of Subcontractor's Work. Subcontractor shall be solely responsible for all construction under this Agreement and any Work Notification Form, including the techniques, sequences, procedures and means, and for coordination of all Work.

Subcontractor has made an independent investigation of the site, and the soil conditions and has satisfied itself as to all of these conditions such that the Bid/Proposal include payments for all Work which may be performed by Subcontractor to overcome any unanticipated, underground, or concealed conditions. Subcontractor waives any and all rights and claims for any changes to the Work Notification Form amount for any items or claims which Subcontractor could have become aware of prior to accepting the Work Notification Form and/or commencing Work thereunder had its examinations of the Project been conducted in a reasonable manner.

Subcontractor shall be responsible for inspecting any work of another contractor that may affect its own Work and shall report in writing to Stock any defects in such work upon discovery of the defect prior to commencing any portion of the Work, or it shall be deemed to have accepted such work as correct and fit to be accommodated into its own. If Subcontractor shall be delayed in the commencement, prosecution, or completion of the Work or shall be obstructed or hindered in the orderly progress of the Work by an act, failure to act, omission, neglect or default of Stock, any architect, another contractor or subcontractor, or any of their respective agents or employees, or by any cause beyond the control of Subcontractor, then the time fixed for completion of the Work may be extended in the sole discretion of Stock and only if Subcontractor notifies Stock in writing within forty-eight (48) hours of the discovery of the cause of such delay. Subcontractor expressly agrees not to make, and hereby waives, any claim for damages on account of any delay, obstruction, or hindrance for any cause whatsoever, including but not limited to, the aforesaid causes, and agrees that Subcontractor's sole right and remedy in the case of any delay shall be an extension of the time fixed for completion of the Work.

6. **PROSECUTION OF WORK:** Subcontractor shall cooperate with all other contractors engaged by Stock to the effect that their work shall not be impeded and shall give such other contractors access to the job site necessary to perform their contracts. Subcontractor shall perform the Work in a prompt and diligent manner whenever such Work, or any part of it, becomes available, or at such other time or times as Stock may direct so as to promote the progress of the entire Project. Subcontractor shall not delay or otherwise interfere with or hinder the work of any other contractor on the job. If the work or property of another is hindered, delayed, or damaged by Subcontractor, Subcontractor will pay for all costs and damages incurred by such other party and will cause all such damage to be corrected to the satisfaction of and without cost to Stock. Any materials that are to be furnished by Subcontractor hereunder shall be furnished in sufficient time to enable Subcontractor to perform and complete its Work with the time or times provided for herein or in any Work Notification Form. If, in the opinion of Stock, in its sole discretion, Subcontractor falls behind in furnishing the necessary labor and/or materials to meet the schedule established by Stock, then Subcontractor shall take such steps and actions as are deemed necessary by Stock to improve the rate of progress, including, but not limited to, increasing the labor force, number of shifts and/or work such overtime as may be required, at its own expense, to bring its part of the Work up to the schedule established by Stock. Subcontractor agrees to reimburse or pay Stock, or Stock may withhold payment otherwise due under this Agreement, for any and all damages that Stock may sustain as a result of such delays by Subcontractor. Time is of the essence in this Agreement.





Subcontractor shall perform all labor in a thorough and workmanlike manner, according to the highest standards of the trade. Subcontractor warrants that all labor done and any materials furnished by Subcontractor will meet or exceed FHA minimum property standards, VA requirements, any applicable building code requirements and all Stock requirements. Should a dispute arise as to the proper interpretation of this Agreement, or any work or material performed or furnished hereunder, which concerns the parties hereto only, or which concerns Subcontractor and any other contractor(s), subcontractor(s) or supplier(s), the dispute shall be decided by Stock, whose decision thereon shall be final and conclusive. In any event, and in spite of any dispute, claim, or controversy arising out of this Agreement, Subcontractor shall proceed diligently with the Work, pending final determination pursuant to any disputes clause or pursuant to any other action taken with respect to any dispute, claim, or controversy.

7. **MATERIALS and EQUIPMENT:** Subcontractor shall secure and maintain material ordered by Subcontractor until completion of the Work and satisfaction acceptance by Stock. Subcontractor shall be responsible for the receipt, delivery, unloading, hoisting, storage, warehousing, protection, insurance and all other risks of loss relating to any materials or equipment Subcontractor is to furnish, install, provide, or have provided to it under this Agreement. Subcontractor shall keep adequate supply of materials on hand at all times, as required to meet production schedules. Subcontractor shall be responsible for the security of all materials on the jobsite. Further, if the Work requires the installation of materials furnished by others, it shall be the responsibility of the Subcontractor to examine the items so provided, and to thereupon handle, store, and install the items with such skill and care to ensure a satisfactory and proper installation. Loss or damage to the materials due to acts of negligence by the Subcontractor shall be deducted from any amounts due or to become due to the Subcontractor.
8. **SUBCONTRACTOR REPRESENTATIONS:** Subcontractor represents and warrants that it is fully qualified in all respects to perform the Work and shall at all times maintain strict discipline among its employees. Subcontractor shall supervise and direct the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with the Contract Documents. Subcontractor shall be responsible to see that the finished Work complies accurately with the Contract Documents. Subcontractor agrees not to employ any person unfit or without sufficient skill to perform the job for which Subcontractor was retained for the Project. Subcontractor agrees that Stock shall not provide training of any kind. Accordingly, it is the sole responsibility and expense of Subcontractor to provide training for the Subcontractor or its employees, agents, or subcontractors.

Subcontractor shall not discriminate against any employee or applicant for employment because of race, creed, color, sex, age or national origin. Subcontractor shall comply with all equal opportunity or affirmative action requirements or plans as may be set forth in the Contract Documents.

Subcontractor shall at all times remain an independent contractor, solely responsible for the Work, methods, techniques, procedures and supervision and coordinating all portions of the Work to be performed under this Agreement and Field Guidelines. No provision hereof shall be construed to make Subcontractor Stock's agent. All person employed by Subcontractor, or Subcontractor's sub-contractors to perform services in connection with this Agreement shall be under the exclusive control and direction of Subcontractor or Subcontractor's subcontractors, it being the intention of the parties that Subcontractor and its subcontractors shall be and remain an independent contractor. Stock shall not exert actual control, nor possess the right to control, the actions of the employees of Subcontractor or Subcontractor's subcontractors in performing duties under this Agreement.

Subcontractor shall fully protect the Work from loss or damage and shall bear the cost of any such loss or damage until final payment has been made. If Subcontractor or any one for whom Subcontractor is legally liable for is responsible for any loss or damage to the Work, or other work or materials of Stock or Stock's separate contractors, Subcontractor shall be charged with the same, and any monies necessary to replace such loss or damage shall be deducted from any amounts due Subcontractor.

Subcontractor shall not load nor permit any part of any structure or property to be loaded in any manner that will endanger that structure or property, nor shall Subcontractor subject any part of the Work or adjacent property to stresses or pressures that will endanger it.

9. **LICENSES and PERMITS:** Subcontractor shall, at Subcontractor's sole expense, hold and maintain all required licenses, obtain all required permits and shall comply with all laws and ordinances and the rules, regulations, and orders of all public authorities relating to the performance of the Work. In the event of termination of this Agreement, Subcontractor shall immediately transfer and assign to Stock any and all applicable certificates, permits, contracts, subcontracts, and purchase orders relating to the Work. Subcontractor agrees that Stock is not responsible for providing any tools or benefits for the Subcontractor or its employees, agents, or subcontractors.

BS  
1-0

10. **REGULATORY COMPLIANCE and HAZARDOUS SUBSTANCES:** The Occupational Safety and Health Act of 1970, as amended (OSHA) has established regulations entitled OSHA Hazard Communication Standard. According to the regulations, manufacturers of hazardous materials are required to furnish Material Safety Data Sheets (MSDS) giving information on proper handling and precautionary measures in using the materials. Many substances commonly used in residential construction fit the description of hazardous materials established by OSHA. Subcontractor shall comply with all OSHA regulations pertaining to the work and any materials used in the work. Subcontractor shall have sole and exclusive responsibility for training its employees, subcontractors and suppliers in the proper handling of hazardous materials and any precautionary measures required. Subcontractor shall supply all protective clothing and devices necessary to protect its employees, subcontractors and suppliers from hazardous materials while on the site. Subcontractor shall obtain all MSDS's pertaining to any hazardous material used or created in the process of performing the work, and shall distribute copies of such MSDS's to Company and to all other contractors, subcontractors, and suppliers performing work on the site. Subcontractor shall also obtain from all other contractors, subcontractors and suppliers performing work on the site, copies of all MSDS's for all hazardous materials used or created by such contractors, subcontractors or suppliers, and shall retain copies of such MSDS's and provide them to Subcontractor's employees, subcontractors and suppliers as required by the OSHA regulations. In other words, Subcontractor must exchange MSDS's with all other contractors, subcontractors and suppliers, and implement a training program for its employees.

Subcontractor acknowledges and understands that the Project may be subject to the requirements of the National Pollutant Discharge Elimination System, as amended (NPDES) and Clean Water Act, as amended (CWA). Subcontractor is fully aware of the NPDES and CWA and shall not in any way interfere, damage or in any way negatively impact the structures and/or procedures in place or to be implemented at the Project pertaining to NPDES and CWA. Subcontractor shall be responsible for any loss, damage, fine and penalty incurred by Stock or its affiliates due to acts of negligence by the Subcontractor and such costs and expenses shall be deducted from any amounts due or to become due to the Subcontractor. Further, Subcontractor shall indemnify Stock for any and all costs, fines, penalties and expenses incurred by Stock as a result of violations of NPDES and CWA caused by Subcontractor.

11. **EMERGENCIES:** In the event of an emergency affecting the safety or protection of persons or the Work or property at the job site or adjacent thereto, Subcontractor, without special instruction or authorization from Stock is obligated to act to prevent threatened damage, injury or loss. Subcontractor shall give Stock written notice within twenty-four (24) hours after the occurrence of the emergency; if Subcontractor believes that any significant changes in the Work or variations from the Contract Documents have been caused thereby. If the Stock determines that a change in the Contract Documents is required because of the action taken in response to an emergency, a Change Order shall be issued to document the consequences of the changes or variations. If Subcontractor fails to provide the twenty-four (24) hour written notice noted above, the Subcontractor shall be deemed to have waived any right it otherwise may have had to seek an adjustment Pricing or an extension to the term of this Agreement.
12. **ASSUMPTION OF LIABILITY:** Subcontractor agrees to, and hereby does, assume full responsibility for any and all acts, negligence or omissions of Subcontractor's employees, laborers, agents, materialmen, and subcontractors and any and all employees and agents of the aforementioned, and any and all other persons doing work under an oral or written order or contract with Subcontractor.
13. **INDEMNIFICATION, HOLD HARMLESS & DEFENSE:** The Work performed by the Subcontractor shall be at the risk of the Subcontractor exclusively. To the fullest extent permitted by law, at Subcontractor's sole expense, Subcontractor shall indemnify, defend and hold harmless both Stock and the Owner (if different from Stock) and their affiliated companies, parents, subsidiaries, partners, joint ventures, representatives, members, designees, officers, directors, shareholders, employees, agents, successors, and assigns (collectively referred to as "Indemnified Party/ies") of, from, and against any and all claims concerning, pertaining to, related to, arising out of and/or connected with the Work and Contract Documents, including but not limited to demands, suits, liabilities, causes of action, damages, claims for bodily injury, death or damage to property, judgments, contractual liabilities, including costs and expenses associated thereto which include but is not limited investigative and repair costs, attorneys' fees and costs, consultants' fees and costs, and other expenses; any of which arise out of, relate to, result from, are occasioned by, contributed to by, connected with and/or are in any way caused, in whole or in part, by the acts of, omissions, failures and/or performance by Subcontractor and/or any of its subcontractors, laborers, materialmen, agents, or employees; or anyone for whose acts any of them may be liable, as to any of the following (collectively referred to as "Claims"):
- (a) Work as required by the Contract Documents and under this Agreement;
  - (b) construction or others services as required by the Contract Documents and under this Agreement;
  - (c) materials furnished as required by the Contract Documents and under this Agreement;
  - (d) violations or alleged violations of Occupational Safety and Health Act of 1970, as amended, or to regulations promulgated thereunder, and/or to violations or alleged violations similar state laws and regulations;

BS  
FC

(e) injuries of/to and/or destruction of tangible property, including the loss of use or economic loss resulting therefrom;  
(f) defectively performed and/or alleged defectively performed Work by Subcontractor and/or any of its subcontractors, laborers, materialmen, agents, or employees, or anyone for whose acts any of them may be liable;  
(g) breach of this Agreement; and/or  
(h) acts or omissions which include negligent or willful misconduct of Subcontractor and/or any of its subcontractors, laborers, materialmen, agents, or employees, or anyone for whose acts any of them may be liable, whether active or passive.

In Whole or in Part: Subcontractor's obligation to indemnify, defend and hold harmless the Indemnified Parties, shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist to any party or person described in this Paragraph 13.

Subcontractor's obligation to indemnify, defend and hold harmless the Indemnified Parties is applicable whether any Claims are caused in part by any of the Indemnified Parties, whether active or passive.

Subcontractor's obligation to indemnify, defend and hold harmless the Indemnified Parties is applicable whether any Claims are caused in part by the concurrent act(s), omission(s) by and/or negligence of any of the Indemnified Parties, whether active or passive, provided however, said Indemnified Party shall not be indemnified for its own sole negligence or willful misconduct.

Limitations on Obligations & Florida Statutes, Section 725.06: With regard to any and all Claims, Subcontractor's obligation to indemnify, defend and hold harmless the Indemnified Parties shall not be limited in any way by any limitation on the amount or type of damages, compensation, insurance requirements and limits set forth in Exhibit "A", or benefits payable by/for Subcontractor or any subcontractor under workers' or workmen's compensation acts, disability acts or other employee benefits acts. Notwithstanding the foregoing, Subcontractor's obligation to indemnify, defend and hold harmless the Indemnified Parties shall be limited to the greater of:

- (a) A maximum of \$5,000,000.00; or
- (b) the amount of this Agreement sum; or
- (c) the maximum amount of insurance coverage limits available to the Subcontractor under any and all policies of insurance and applicable to any Claim(s).

The parties agree and acknowledge that this limitation bears a reasonable commercial relationship to this Agreement and the services being provided hereunder, and this indemnity clause is intended to comply with the Florida laws on indemnity and specifically to comply with Florida Statutes, Section 725.06, including any amendments thereto, and is to be interpreted in such a way as to be fully enforceable. If any word, clause or provision of this Paragraph 13 is determined not to be in compliance with Florida Statutes, Section 725.06, including any amendments thereto, it shall be ineffective and the remaining words, clauses and provisions shall remain in full force and effect.

Duty to Defend: Subcontractor's duty to defend under this Paragraph 13 is independent and separate from its duty to indemnify and hold harmless, and the duty to defend exists regardless of any ultimate liability of Stock and/or any Indemnified Party. The duty to defend arises immediately upon presentation of a Claim by any person or entity with written notice of such Claim being provided to Subcontractor.

Survival Provision: Subcontractor's obligation to indemnify, defend and hold harmless will survive the expiration or earlier termination of this Agreement until it is determined by final judgment that an action against the Indemnified Party/ies for any and all matters indemnified is fully and finally barred by the applicable statute of limitations.

Waiver of Subrogation: Subcontractor waives any rights of subrogation against Stock and shall require any of Subcontractor's subcontractors, laborers, materialmen, agents, or employees, and anyone for whose acts any of them may be liable to waive their subrogation rights against Stock.

Secure Performance: At its sole discretion, Stock may withhold, from time to time, from any monies otherwise due Subcontractor hereunder or under any other contract or agreements, a sum of money, which, in the sole judgment of Stock, shall be sufficient to secure the performance of Subcontractor's obligations under this Paragraph 13.

Notice: Stock shall provide written notice of any Claims within sixty (60) days after Stock becomes reasonably aware that Subcontractor may be liable for any such Claims.

14. SUBCONTRACTOR WARRANTIES: Subcontractor represents and warrants to Stock that all equipment and materials provided by Subcontractor and incorporated in the Work will be new, unless otherwise specified in the Plans and Specifications, and together with the Subcontractor's Work shall be of good quality, free of defects and in conformity with the Contract Documents. It is understood between the parties hereto that all equipment, materials and Work not so in conformity shall be defective. Subcontractor specifically agrees that it is responsible for the protection of the Work until final completion and that Subcontractor will make good or replace, at no expense to Stock any damage to the Work which occurs prior to said final completion. Inspection by Stock shall not relieve Subcontractor of its obligations herein. SUBCONTRACTOR FURTHER WARRANTS THAT ALL LABOR AND MATERIALS FURNISHED BY

*[Handwritten signature]*  
JF

SUBCONTRACTOR SHALL BE FREE OF DEFECTS FOR A PERIOD BEGINNING AT THE DATE THAT STOCK CONVEYS TITLE OF THE SUBJECT OF THE WORK, (HOUSE OR CONDOMINIUM UNIT) TO A PURCHASER OF THE HOUSE OR CONDOMINIUM UNIT, AND CONTINUING FROM SUCH DATE UNTIL THE LAST OF THE FOLLOWING TO OCCUR: (1) ONE YEAR; (2) FOR THE DURATION OF ANY LIMITED WRITTEN WARRANTY GIVEN BY STOCK TO SUCH PURCHASER OR (3) THE DURATION OF ANY COMMON LAW OR STATE OR FEDERAL STATUTORY WARRANTIES OF SUCH PURCHASER, OR SUBSEQUENT PURCHASER, OR ANY OTHER PERSON OR ENTITY, IF ANY. SUBCONTRACTOR AGREES TO MAKE, AT SUBCONTRACTOR'S SOLE EXPENSE, ALL REPAIRS AND CORRECT SUCH DEFECTS IN ORDER TO MEET ANY OF SUBCONTRACTOR'S WARRANTY OBLIGATIONS WITHIN EIGHT (8) HOURS OF NOTICE (ORAL OR WRITTEN) OF SUCH DEFECT IN AN EMERGENCY (DETERMINED BY STOCK IN ITS SOLE DISCRETION) AND WITHIN FORTY-EIGHT (48) HOURS OF NOTICE ON A NON-EMERGENCY BASIS. In addition, Subcontractor shall transfer any and all applicable manufacturer's warranties, together with all service and operating manuals for materials furnished by it under this Agreement, to Stock when the Work is completed or this Agreement is terminated, whichever Occurs first. The warranty contained in this paragraph 14 is in addition to any other special warranties required by contract or law, and such warranty does not negate or abridge Stock's right to assert claims for latent or patent defects in accordance with applicable law.

The Subcontractor agrees to satisfy such warranty obligations which appear within the warranty or guarantee periods established in the Contract Documents without cost to the Owner or the Contractor. If no guarantee of warranty is required of the Contractor in the Contract Documents, then the Subcontractor shall guarantee or warranty the Subcontractor Work for the period of one (1) year from the date(s) of conveyance to the end user.

The Subcontractor further agrees to execute any special guarantees or warranties that shall be required for the Subcontractor's Work prior to final payment.

All guarantees and warranties must be submitted to the Contractor in a form acceptable to the Contractor prior to and as a condition for final payment.

Subcontractor expressly agrees that all warranties made by it in this Agreement shall survive the termination or expiration of this Agreement for any reason prior to the expiration of the full warranty period.

15. **RUBBISH and DEBRIS:** Subcontractor agrees to keep the job site and adjoining property free of waste material and rubbish caused by its Work or that of its subcontractors and to remove all waste materials and rubbish on completion or termination of its Work together with all tools, equipment, and machinery. Subcontractor agrees that upon terminating its Work at the site, Subcontractor shall conduct general clean-up operations, including, but not limited to, the cleaning of glass surfaces, paved streets and walks, steps and interior floors and walls, where applicable. Any personal property left by Subcontractor on or around job site for thirty (30) days following completion of the Work, excluding any Work performed pursuant to warranty service obligations, will become the property of Stock.
16. **ASSIGNMENT:** Subcontractor shall not assign this Agreement or any payments due or to become due hereunder without the prior written consent of Stock, which consent may be withheld in the sole discretion of Stock. Payments to Subcontractor will be made in accordance with Stock's current published payment procedures, as the same may be amended from time to time. Payment to Subcontractor of all or any portion of any progress payment or the final payment shall not constitute or imply or be evidence of performance of the Work by Subcontractor or acceptance of any portion of Subcontractor's Work by Stock, or in any way waive or affect Stock's claims or rights against Subcontractor.
17. **CHANGES:** Stock reserves the right to make changes in the Work in the nature of additions, deletions, or modifications, without invalidating this Agreement and agrees to make corresponding adjustments in the contract price and time for performance. All changes will be authorized by a new written Work Notification Form which will include conforming changes in any Bid/Proposal, payment schedule and/or time for performance.
18. **INSURANCE REQUIREMENTS:** Subcontractor shall procure and maintain insurance policies in the form and amounts as set forth on Exhibit "A", attached hereto and incorporated herein by reference. All coverage shall be placed with an insurance carriers duly admitted in the State of Florida and shall be reasonably acceptable to Stock. All insurance carriers must maintain an A.M. Best rating of "A-VIII" or better. Certified copies of all insurance policies must be made available and provided to Stock within ten (10) days of Stock's request. The word "Claims" used in this Paragraph 18 has been defined in Paragraph 13 above.

Endorsements in Insurance Policies: In addition to Exhibit "A", the Subcontractor shall carry and maintain commercial general liability insurance on ISO form CG 00 01 10 01 (or a substitute form providing coverage equal to or greater than said form). All policies of liability insurance shall contain an Additional Insured Endorsement on ISO form CG 20 10 11 85 (or a substitute form providing coverage equal to or greater than said form).

or greater than said form which would at a minimum additional insured status with respect arising out of Subcontractor's Work pursuant to the Contract Documents and which provides coverage both during the products completed operations hazard period.) Such insurance shall cover liability arising out of premises, operations, independent contractors, products-completed operations, personal and advertising injury, bodily injury, property damage, and liability assumed under an insured contract (including the tort liability of another assumed in a business contract). There shall be no endorsement or modification of the commercial general liability, excess or umbrella coverage form which contains any of the following:

- (a) Limitations or Modification of Contractual Liability Language;
- (b) Limitations or exclusions for Damage to Work Performed by Sub-Contractors;
- (c) Limitations or Exclusions for Residential Work
- (d) Limitations or Exclusions for Multi-Unit Dwellings
- (e) Limitations or Exclusions related to explosion, collapse, underground property damage;
- (f) Pollution Exclusions; or
- (g) work performed by subcontractors.

Additional Insured: Stock shall be named as an additional insured, loss payee and certificate holder on each of the policies as outlined in Exhibit "A". Coverage under all policies shall be afforded to the additional insureds whether or not any Claims are actually in litigation.

Stock shall remain as an additional insured on each policy for a period not less than ten (10) consecutive years from the date of final completion of the entire construction project that is the subject of this Agreement and the Contract Documents regardless of the date when the Subcontractor, Subcontractor's subcontractors, laborers, materialmen, agents, employees, and/or anyone for whose acts any of them may be liable, completes or finishes any Work or any other construction work, and/or regardless of the dates any certificates of occupancy are issued. Subcontractor's obligation to have Stock remain as an additional insured on each policy for a period not less than ten (10) consecutive years from the date of final completion of the entire construction project will survive the expiration or earlier termination of this Agreement until any and all Claims are fully and finally barred by the greater of any and all applicable statute of limitation or statute of repose.

Priority of Insurance Coverage: It is the intent of the parties that all available and applicable insurance coverage of the Subcontractor, whether primary or excess or umbrella policies, be primary coverage for any and all Claims concerning, pertaining to, related to, arising out of and/or connected with the Work and Contract Documents, regardless of who makes said Claims. Further, the parties intend that Stock's insurance policies be excess over any and all available and applicable insurance policies of Subcontractor for the purposes of indemnity and defense of Stock.

Certificates of Insurance: Prior to commencing any Work under this Agreement, Subcontractor shall submit to Stock copies of policies or Certificate of Insurance that confirm appropriate insurance coverage.

Each Certificate of Insurance shall provide that the insurer must give Stock at least ninety (90) days prior written notice of non-renewal or material change in coverage and termination of the coverage thereunder. Not less than two (2) weeks prior to the expiration, cancellation or termination of any such policy, the Subcontractor shall supply Stock with a new and replacement Certificate of Insurance and additional insured endorsements as proof of renewal/replacement policies of insurance.

Subcontractor's Notice to Insurance Carriers and Agents: Prior to commencing any Work under this Agreement, Subcontractor must provide a fully executed complete copy of this Agreement with Exhibit "A" and all amendments to each of its insurance agents and insurance carriers. Within ten (10) days after execution by the parties of any future amendments, modifications, additions, deletions, changes or addendums to this Agreement, Subcontractor must provide a fully executed complete copy of this Agreement with Exhibit "A", as amended, to each of its insurance agents and insurance carriers.

Subcontractor's Subcontractors: Subcontractor acknowledges it shall not subcontract any part of this Agreement without supplying Stock proof that all Subcontractor's subcontractors, laborers, materialmen, agents, or employees, and anyone for whose acts any of them may be liable, obtains and maintains appropriate insurance coverage as detailed in Exhibit "A". It shall be Subcontractor's sole responsibility to ensure that Subcontractor's subcontractors, laborers, materialmen, agents, or employees, and anyone for whose acts any of them may be liable, fully complies with this Paragraph 18 and Exhibit "A", and future amendments thereto.

*[Handwritten initials]*

Additionally, and prior to commencement of the Work, the Subcontractor shall provide Stock with a Certificate of Insurance showing insurance coverage, in compliance with Exhibit "A" each and every Subcontractor's subcontractors, laborers, materialmen, agents, and/or employees, and anyone for whose acts any of them may be liable. Coverage shall be no less than the limits as described in Exhibit "A". In the event any of these policies are terminated, for any reason, the Subcontractor shall provide Stock copies of Certificates of Insurance showing replacement coverage in compliance with Exhibit "A".

Waiver of Subrogation from Insurers: Subcontractor shall obtain from each of its insurers, a waiver of subrogation as to each of its insurance policies, in favor of Stock with respect to any Claims concerning, pertaining to, related to, arising out of and/or connected with the Work and Contract Documents.

Breach: Failure of Subcontractor to maintain complete and appropriate insurance is a material breach. In this event, in addition to the all other remedy provisions in this Agreement, Stock can elect to terminate this Agreement or to provide insurance at Subcontractor's sole expense; in neither case, however, shall Subcontractor's liability be lessened.

19. COMPLETION: Immediately upon the performance of any part of the Work, as between Subcontractor and Stock, title thereto shall vest in Stock to the extent permitted by law; provided, however, the vesting of such title shall not impose any obligations on Stock or relieve Subcontractor of any of its obligations hereunder. Upon completion of the Work described in any Work Notification Form, Subcontractor shall request the Stock representative on the job site to confirm completion of the Work. Thereafter, provided that Subcontractor is not in breach of this Agreement, and provided that Subcontractor is otherwise entitled to payment under this Agreement, upon notification to Stock, Stock shall pay Subcontractor for the Work described in the Work Notification Form in accordance with the Work Notification Form and the Bid/Proposal within sixty (60) days following Stock's receipt of a request for payment from Subcontractor. Subcontractor hereby agrees that if Subcontractor fails to request from Stock any sum, including, but not limited to, wages or contract sums due under this Agreement or any Work Notification Form, within ninety (90) days from the date they became due, said sums to Subcontractor and Subcontractor shall have no claim thereto.
20. WAIVER: TO THE EXTENT NOT PROHIBITED BY LAW, CONTRACTOR HEREBY WAIVES AND RELINQUISHES ANY AND ALL STATUTORY OR CONTRACTUAL RIGHTS THAT IT MAY HAVE TO OBTAIN STOP NOTICES OR LIENS, MECHANICS' OR OTHERWISE, AGAINST THE PROPERTY OR IMPROVEMENTS THAT ARE THE WORK AND AGREES NOT TO FILE ANY SUCH NOTICE OR LIEN AGAINST SUCH PROPERTY OR IMPROVEMENTS FOR ANY LABOR, SERVICES, WORK, MATERIALS, EQUIPMENT, TOOLS OR OTHER ITEMS FURNISHED TO OR FOR STOCK. TO THE EXTENT NOT PROHIBITED BY LAW, CONTRACTOR AGREES TO LOOK SOLELY TO ITS CONTRACTUAL RIGHTS FOR RECOVERY.
21. TAXES/CHARGES: Subcontractor shall pay all taxes, contributions and/or premiums payable on its employees or on its operations under workers' compensation laws, unemployment compensation laws, the Federal; Social Security Act, health and welfare benefit plans, gross business taxes, sales and use taxes, contributions and/or premiums which are payable by the employees and the Subcontractor shall indemnify, defend and hold Stock harmless from all liability, loss and expense resulting from Subcontractor's failure to comply with these requirements. Subcontractor shall comply with all rules and regulations at any time applicable hereto and shall, on demand, substantiate to Stock's reasonable satisfaction that all taxes and charges are being properly paid. **SUBCONTRACTOR SHALL BE SOLELY RESPONSIBLE FOR WITHHOLDING TAXES, SOCIAL SECURITY TAXES AND STATE UNEMPLOYMENT TAXES FOR ALL EMPLOYEES OF SUBCONTRACTOR.**
22. DEFECTIVE WORK: Should Stock notify Subcontractor (orally or in writing) that any part of the Work is incorrect and does not conform to the terms of the Contract Documents, Subcontractor shall immediately begin to correct such defective work and shall complete such corrected work within forty-eight (48) hours unless Stock shall agree to a longer period. If Subcontractor refuses to perform any corrective work, Subcontractor shall waive the above described forty-eight (48) hour period and such refusal or failure to perform the corrective work shall be deemed a default by Subcontractor hereunder. Subcontractor shall bear the entire cost of such corrective work, including any cost incurred by the disturbance of work completed by other contractors.
23. BREACH: SUBCONTRACTOR SHALL BE IN BREACH OF THIS AGREEMENT IF:
- (a) Subcontractor's Work is defective and not remedied as provided herein; or
  - (b) Subcontractor does not make prompt and proper payments to its employees, agents and/or subcontractors; or
  - (c) Subcontractor does not make prompt and proper payments for labor, services, work, materials or equipment furnished by third parties to it; or
  - (d) Another contractor is damaged by an act for which Subcontractor is responsible; or



- (e) Subcontractor or any third party furnishing labor, services, work, materials, equipment, tools or other items for the Work files any claim or lien against the property where the Work has been performed and such claim or lien has not been discharged or resolved within twenty-four (24) hours after notice thereof to Subcontractor, and Subcontractor has not posted a discharge bond within this twenty four (24) hour period; or;
- (f) Subcontractor fails to perform warranty service under this Agreement or any other prior or contemporaneous Subcontractor Agreement with Stock; or
- (g) Stock is fined by any governmental agency on account of or arising out of Subcontractor's (or Subcontractor's subcontractors or agents) violation of any law, ordinance, regulation, administrative ruling and/or court order; or
- (h) Subcontractor becomes insolvent or any petition for bankruptcy is filed with respect to Subcontractor; or
- (i) Subcontractor fails or neglects to prosecute the Work diligently and promptly, whether due to inadequate or incompetent supervision, insufficient skilled workers, lack of material or equipment, improper quantity or quality, or for any other reason not described herein;
- (j) Subcontractor fails to comply with any terms of this Agreement or any Work Notification Form issued under this Agreement.

**24. REMEDIES: IF SUBCONTRACTOR IS IN BREACH OF THIS AGREEMENT, IN ADDITION TO ANY AND ALL OTHER REMEDIES AVAILABLE UNDER APPLICABLE LAW, STOCK, IN ITS SOLE DISCRETION, MAY DO ANY OR ALL OF THE FOLLOWING:**

(A) IMMEDIATELY TERMINATE THIS AGREEMENT, ANY WORK NOTIFICATION FORM OR OTHER VERBAL OR WRITTEN AGREEMENT WITH SUBCONTRACTOR OR OTHER SUBCONTRACTOR BASE AGREEMENT BETWEEN SUBCONTRACTOR AND STOCK AND DISMISS SUBCONTRACTOR FROM THE JOB SITE BY PROVIDING SUBCONTRACTOR WITH WRITTEN NOTICE OF SUCH TERMINATION;

(B) ENGAGE OR EMPLOY OTHER CONTRACTORS TO REMEDY SUBCONTRACTOR'S DEFECTIVE WORK, TO COMPLETE ANY PORTION OF THE WORK NOT COMPLETED BY SUBCONTRACTOR, PERFORM SUBCONTRACTOR'S WARRANTY SERVICE OBLIGATIONS OR OTHERWISE CURE SUBCONTRACTOR'S BREACH AT SUBCONTRACTOR'S SOLE COST AND EXPENSE;

(C) WITHHOLD FROM SUBCONTRACTOR FOR UP TO ONE HUNDRED TWENTY (120) DAYS ANY SUMS WHICH MIGHT BE DUE OR BECOME DUE TO SUBCONTRACTOR, WHETHER UNDER THIS AGREEMENT, ANY WORK NOTIFICATION FORM OR ANY OTHER AGREEMENT, AND MAY CHARGE AGAINST ANY SUCH SUMS WITHHELD ALL SUMS EXPENDED OR COSTS INCURRED BY STOCK ARISING FROM THE ENGAGEMENT OF OTHER CONTRACTORS AS PROVIDED IN (B) ABOVE OR OTHERWISE RELATING TO SUBCONTRACTOR'S BREACH, INCLUDING, BUT NOT LIMITED TO, STOCK'S OVERHEAD AND PROFIT; AND/OR

(D) WITHHOLD FROM SUBCONTRACTOR FOR UP TO ONE (1) YEAR AN AMOUNT, WHICH AMOUNT SHALL NOT EXCEED FIVE PERCENT (5%) OF THE CONTRACT PRICE FOR THE WORK, TO INSURE SUBCONTRACTOR'S PERFORMANCE OF WARRANTY SERVICE OBLIGATIONS. SHOULD SUBCONTRACTOR FAIL TO PERFORM SUCH WARRANTY SERVICE OBLIGATIONS, STOCK MAY CHARGE AGAINST SUCH AMOUNT WITHHELD ALL SUMS EXPENDED OR COSTS INCURRED BY STOCK ARISING FROM SUBCONTRACTOR'S FAILURE TO PERFORM SUCH WARRANTY SERVICE OBLIGATIONS.

**25. TERMINATION:** This Agreement may also be terminated and Subcontractor dismissed from the job site by Stock at any time in its sole discretion, with or without cause, by providing Subcontractor with notice (written or oral, in the sole determination of Stock) of such termination, and such termination shall be effective as of the time and date stated in such notice. In the event of termination of the Agreement pursuant to this paragraph 25 without cause, Stock shall pay Subcontractor within sixty (60) days after the effective date of such termination, all sums due and owing Subcontractor for all labor incurred and all materials incorporated in the Work performed under this Agreement prior to the effective date and time of termination. Subcontractor acknowledges and agrees that if Subcontractor is terminated pursuant to this paragraph 25 with cause, Subcontractor shall have no claim against Stock for any additional sums, including, without limitations any claims for material purchased but not used in the Work, or for lost profits or for any other claim or sums whatsoever. The termination payment described herein, if applicable, is Subcontractor's sole remedy and in no event shall Subcontractor have any claim for consequential damages. Further, in the event of termination, Subcontractor will turn over all equipment and materials ordered, purchased for and delivered to the Project, and Stock will pay the Subcontractor any amounts due based on the percentage of completion of Subcontractor's Work that is in compliance with this Agreement and the Pricing, actually accomplished and equipment and materials supplied to the Project; excluding any payment for unearned profit and overhead. Subcontractor will facilitate transfer of Work to Stock by assigning its rights under subcontracts and purchase orders.

26. **ENTIRE AGREEMENT:** This Agreement, together with the Contract Documents, constitutes the entire agreement between Subcontractor and Stock and there are no other agreements, oral or written, by and between the parties hereto, except as to Subcontractor's warranties under any prior or contemporaneous Subcontractor Agreements with Stock, which warranties are incorporated by reference herein for all purposes. This Agreement, together with the Contract Documents, does not create a partnership or other unincorporated association between the Subcontractor and Stock. The relationship of Subcontractor is that of an independent contractor.
27. **HEADINGS:** The paragraph headings in this Agreement are for convenience only and shall not affect the meaning, interpretation or scope of the provisions which follow them.
28. **NOTICES:** Unless otherwise set forth herein, any notice to be given or served upon any party hereto in connection with this Agreement must be in writing, and shall be (a) delivered by hand, (b) sent by Federal Express, Express Mail or other overnight courier service, sent to the address on the first page hereof or such other address for notice as the parties shall last have furnished in writing to the person giving the notice or (c) sent by facsimile transmission with a copy delivered pursuant to (a) or (b) above. Any such notice or demand shall be deemed to have been duly given or made and to have become effective (i) if delivered by hand to a responsible officer of the party to which it is directed, at the time of the receipt thereof by such officer, (ii) if sent by facsimile transmission as of the date and time of transmission; and (iii) if sent by Federal Express, Express Mail or other reputable overnight courier service, upon the earlier of the date of receipt or one (1) business day after posting thereof. If a notice is mailed in the manner provided above, it is duly given, whether or not the addressee received it.
29. **INVALIDITY:** If any provision of this Agreement is held to be illegal, invalid or unenforceable under present or future laws, such provision shall be fully severable. This Agreement shall be construed enforced as if such illegal, invalid or unenforceable provision had never comprised a part of this Agreement, and the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by the illegal, invalid or unenforceable provision or by its severance from this Agreement. Furthermore, there shall be added automatically as if part of this Agreement a provision as similar in terms to such illegal, invalid or unenforceable provision as may be possible and may be legal, valid and enforceable.
30. **DISPUTE:** If a controversy or claim arises out of or related to this Agreement, including a claim relating to an action taken by Stock pursuant to the self-help remedies of paragraph 24, and the parties cannot resolve the matter between themselves within sixty (60) days after Stock is first provided written notice of the claim or controversy by Subcontractor, the parties agree to try in good faith to settle the dispute by mediation under the Construction Industry Mediation Rules of the American Arbitration Association. If not settled by mediation, the dispute shall be resolved by final and binding arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association, and judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. Should a dispute arise between Stock and a buyer of a residence regarding materials supplied or work performed by Subcontractor, Subcontractor agrees to participate in, and be bound by, arbitration proceedings between Stock and the buyer.
31. **JURISDICTION and PRESUMPTION:** This Agreement shall be governed by and construed under the laws of the State of Florida. Any action brought to enforce or interpret this Agreement shall be brought in the court of appropriate jurisdiction in the county in which the property is located. Should any provision of this Agreement require judicial interpretation, the parties hereto agree and stipulate that the court interpreting or considering the same shall not apply the presumption that the terms hereof shall be more strictly construed against a party by reason of any legal conclusion that a document should be construed more strictly against the party who itself or through its agents prepared the same, or being agreed that all parties hereto have participated in the preparation and negotiation of this Agreement and each party had full opportunity to consult legal counsel of its choice prior to the execution of this Agreement.
32. **WAIVER:** Except as expressly set forth herein, this Agreement may not be changed, modified or terminated, except by an instrument executed by the parties hereto. No waiver by either party of any failure or refusal to comply with the obligation of any other party hereunder shall be deemed a waiver of any other or subsequent failure or refusal to so comply.
33. **COUNTERPARTS and FACSIMILE/PDF SIGNATURES:** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which shall constitute one and the same agreement. Signatures given via facsimile or scan PDF transmission and shall be deemed given as of the date and time of transmission to the other party and shall be deemed original.
34. **PERSONS BOUND:** The provisions of this Agreement shall inure to the benefit of, and shall bind, the heirs, executors, administrators, successors and assigns of the respective parties. No person shall be deemed to be a third party beneficiary of this Agreement or any portion thereof. Subcontractor may not assign this Agreement without Stock's prior written consent, which consent Stock may withhold in its sole

  
150